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A

COLLECTION

Edm.d Taylor

OF

ALL SUCH

ACTS

OF THE

GENERAL ASSEMBLY

OF

VIRGINIA,

OF A PUBLIC AND PERMANENT NATURE, AS ARE NOW IN FORCE;

WITH A

NEW AND COMPLETE INDEX.

TO WHICH ARE PREFIXED THE DECLARATION OF RIGHTS, AND CONSTITUTION, OR FORM OF GOVERNMENT.

PUBLISHED PURSUANT TO AN ACT OF THE GENERAL ASSEMBLY, PASSED ON THE TWENTY-SIXTH DAY OF JANUARY, ONE THOUSAND EIGHT HUNDRED AND TWO.

RICHMOND,

PRINTED BY SAMUEL PLEASANTS, JUN. AND HENRY PACE.

M,DCCC,III.

PREFACE.

BY an act of the General Aſſembly of Virginia, dated December 28th, 1792, it was ordained, that a collection ſhould be made of all ſuch acts of the Aſſembly, of a public and permanent nature, as were then in force. For this purpoſe, ſeveral lawyers were ſolicited to ſuperintend the compilation. Mr. Davis, then printer to the Commonwealth, did not get the work completed 'till the cloſe of the year 1794. It, therefore, embraced all ſuch laws, of a public and permanent nature, as were paſſed during the ſeſſion, which commenced November 11th, 1794.

It was unavoidably to happen that this collection would almoſt immediately become defective; and that its defects were to increaſe annually, and without intermiſſion. The new laws of the more important claſs were, for the moſt part, occupied in altering, or in repealing ſome of their predeceſſors. Hence, it was evident, that if a man of buſineſs was not regularly ſupplied with the additional laws, the Reviſed Code would be quite as likely to lead him into miſtakes, as to give him proper information. The conſequence was, that every practitioner of the law found it neceſſary to purchaſe, annually, the large folio pamphlet, containing the laws of each ſucceeding aſſembly. In the courſe of a man's life, theſe publications would have ſwelled into a library; and, what was extremely inconvenient, by far the greater part of them were laws of a local and private nature, which were totally uſeleſs, and a mere incumbrance to the practitioner in a court.

This Reviſed Code, with all its augmenting imperfections, had become extremely ſcarce. The original price was eight dollars. But it was almoſt impoſſible to obtain the book at any price whatever. The conſtant demand for the Reviſed Code induced the proprietors of the preſent work to publiſh propoſals for a ſecond, and improved edition, which was to bring down the collection ſo late as to the end of the ſeſſion of December, 1801. In the former

edition, therefore, the lateſt act of Aſſembly bears date the 26th of December, 1794. In the preſent edition, the lateſt ſtatute paſſed upon February 2d, 1802. This makes a difference of more than ſeven years; and theſe ſeven years appear to have been diſtinguiſhed beyond every former period of the hiſtory of the commonwealth, by the multitude and importance of the laws which in that time were paſſed. To give a complete idea of this fact, we have only to obſerve, that the edition of Mr. Davis contained *one hundred and eighty-one ſtatutes*; and that the preſent contains THREE HUNDRED AND THIRTEEN. Of theſe, one hundred and thirty-two additional ſtatutes, one hundred and twenty-ſix were paſſed within thoſe ſeven years. They compoſe, therefore, in point of number, more than two-fifths of the whole collection. The other ſix laws, which make up the total additional number of one hundred and thirty-two, had been paſſed long before the publication of the former edition of "The Reviſed Code." Some of them are of very conſiderable length. They were ſelected, and inſerted by the ſpecial advice and deſire of Governor Monroe. He was one of the gentlemen who had been appointed to reviſe the former edition; and it was his opinion that theſe ſix acts of Aſſembly had been improperly omitted.

Exclusive of the index, the title page and preface, the preſent volume contains four hundred and fifty-four pages. Of theſe, the additional laws fill an hundred and twenty four pages, which is not much leſs than a third part of the whole text. It is not neceſſary to ſay how much more convenient this conciſe and perſpicuous arrangement muſt be, than to have the trouble of wandering through ſeven folio pamphlets, in queſt of a ſtatute.

Theſe details, without any comment of ours, abundantly prove, had, indeed, other evidence been wanting, the propriety and neceſſity for a ſecond edition of this book. It is now, alſo, condenſed into a much more manageable ſize than it formerly aſſumed. No gentleman's pocket can, at leaſt, in the preſent age, contain a folio volume; and much leſs would it contain the enormous appendage of ſeven folio pamphlets. In riding ten, or fifteen miles to a county

court-houſe, a gentleman does not always think it worth while to take a portmanteau along with him; nor, indeed, is every portmanteau large enough to contain ſuch maſſes of print and paper. Upon this account, the preſent edition has been reduced to an octavo ſize, and printed as cloſely as poſſible. Hence, a lawyer, when he ſets out for the county court-houſe, will no longer be obliged to leave his eight folios behind him, and, amidſt a croud of competitors, to ſolicit the unfortunate clerk of the court to let him have a ſight of the Reviſed Code. He can now put his hand into his pocket, and take out a genteel, portable, octavo volume, which comprehends his former library, diſencumbered of all its rubbiſh. The type, on which the preſent edition is printed, is either the ſame, or almoſt exactly the ſame with that of the laſt, and moſt eſteemed London edition of Coke upon Littleton. This circumſtance is mentioned here, becauſe a complaint had been made, in one of the Richmond newspapers, by ſome nameleſs writer, that the type was too ſmall. You cannot, at the ſame time, enjoy the cool, bracing breeze of winter, and the verdant vegetation of ſummer. You cannot, in the ſame book, unite the advantages of a folio, and of an octavo. If this edition had been printed upon a type as large as that of Mr. Davis, it muſt have been one-third part dearer than it is; for the volume, including the new index, and the bottom notes, poſitively contains one third part more of matter than the former edition. The price, to ſubſcribers, muſt have been raiſed to nine dollars; and to non-ſubſcribers, to twelve dollars. Very few purchaſers will regret that the publication can be had at a price ſo much more reaſonable.

The former edition laboured under more than one material defect. It was often impoſſible to tell at what time a ſtatute had originally paſſed. Put the caſe, that a deed was to be conteſted, which bore date in 1760. It is clear that this tranſaction could not be affected by laws made poſterior to its date. It became a queſtion how long the law had exiſted, or, when a predeceſſor to it, or to ſome part of it, had been paſſed in, perhaps, a different form. For inſtance, of chapter CXXVII. a conſiderable part appears to have been enacted at different periods; one part in 1786, others in 1791. In the old edition of the Reviſed Code, the law is dated December 26th, 1792.

The bottom notes of the new edition give notice, that various parts of it were in force before, although the whole had been covered by the ſubſequent ſtatute of 1792. The ſame notes give intimation, that this law has been amended by another, of December, 1801. Again, chapter CXXVIII bears date the 26th of December, 1792. But we learn that the firſt clauſe of the ſtatute exiſted in 1762, that is to ſay, thirty years before. The ſecond clauſe, which is far the longeſt in the act, had been taken from a former ſtatute, dated October, 1776. From not knowing how far back the force of theſe laws extended, the court was often caſt into irretrievable confuſion. To diſcover how far back a ſtatute extended, was often a work of great time and difficulty; and perhaps the requiſite apparatus of old laws could not always be had. Gentlemen of the bar aſſure us, that the bottom notes, which are to be found at the foot of almoſt every ſingle page of this edition, are, themſelves alone, fairly worth the whole price of the book. We have neither received, nor aſked permiſſion to publiſh the name of the ſuppoſed author of theſe notes. He is, however, a gentleman whoſe name has long been familiar to every lawyer in Virginia. He has long filled more than one intereſting department in the ſyſtem, and the ſcience of juriſprudence. In point of legal knowledge and abilities, his reputation is inferior to none.

All the gentlemen of the law, with one voice, complained of the imperfection of the former index. A new one has been entirely wrote over again, and at a very conſiderable expence, for the preſent edition. In the former, there were, under the letter A, only *twenty-ſix* different heads. In this edition, there are *forty-nine*. In the former, letter S contained only *twenty five* heads. This has *forty-ſeven*. Theſe particulars are mentioned, to ſhew the ſuperior perſpicuity and completeneſs of the preſent index; and how greatly it muſt facilitate an accurate examination of the contents of the volume. The index contains *ſeventy-two* pages. The text of the laws, excluſive of the preface and title page, contains as above mentioned, four hundred and fifty-four; ſo that there is one page of index for about every ſix pages of text. A larger number of references would have been uſeleſs, and have ſerved rather to embarraſs, than aſſiſt, the reader. This laborious part of the work was

drawn up by Mr. James Rind, who had been employed as an aſſiſtant, by the ſupervifors of the former edition. We have every reaſon to think that his performance will give entire ſatisfaction.

This volume, the index excepted, was completely printed off ſeveral months ago. But it was impoſſible to deliver the book till this time, becauſe the bad ſtate of Mr. Rind's health did not permit him to furniſh the index ſooner. This apology will, no doubt, be conſidered as ſufficient for a long delay of publication, which it was impoſſible for the editors to prevent.

It would be the ſummit of frivolity to expatiate upon the importance of a work like this; becauſe it is plain, that every family in the commonwealth, ſhould, if poſſible, poſſeſs a copy of it. To judges, magiſtrates and lawyers, it is indiſpenſably neceſſary; and every private gentleman, who wiſhes to underſtand either his own rights, or thoſe of his neighbours, ought to be converſant with its contents.

RICHMOND, April 1ſt, 1803

Hen? Taylor

1776.

REVISED CODE, &c.

At a GENERAL CONVENTION *of Delegates and Repreſentatives, from the ſeveral Counties and Corporations of* VIRGINIA, *held at the Capitol, in the City of* WILLIAMSBURG, *on* MONDAY, *the 6th of* MAY, 1776.

CHAP. I.

A Declaration of Rights made by the Repreſentatives of the good People of VIRGINIA, *aſſembled in full and free Convention; which rights do pertain to them, and their poſterity, as the baſis and Foundation of Government.*

I. THAT all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a ſtate of ſociety, they cannot, by any compact, deprive or diveſt their poſterity; namely, the enjoyment of life and liberty, with the means of acquiring and poſſeſſing property, and purſuing and obtaining happineſs and ſafety.

II. THAT all power is veſted in, and conſequently derived from, the people; that Magiſtrates are their truſtees and ſervants, and at all times amenable to them.

III. THAT government is, or ought to be, inſtituted for the common benefit, protection and ſecurity, of the people, nation, or community. Of all the various modes and forms of government, that is beſt, which is capable of producing the greateſt degree of happineſs and ſafety, and is moſt effectually ſecured againſt the danger of mal-adminiſtration; and that when any government ſhall be found inadequate or contrary to theſe purpoſes, a majority of the community hath an indubitable, unalienable, and indefeaſible right, to reform, alter, or aboliſh it, in ſuch manner as ſhall be judged moſt conducive to the public weal.

IV. THAT no man, or ſet of men, are entitled to excluſive or ſeparate emoluments or privileges from the community, but in conſideration of public ſervices; which not being deſcendible, neither ought the offices of Magiſtrate, Legiſlator, or Judge, to be hereditary.

V. THAT the Legiſlative, and Executive powers of the ſtate ſhould be ſeparate and diſtinct from the Judiciary; and that the members of the two firſt may be reſtrained from oppreſſion, by feeling and participating the burthens of the people, they ſhould, at fixed periods, be reduced to a private ſtation, return into that body from which they were originally taken, and the vacancies be ſupplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws ſhall direct.

VI. THAT elections of members to ſerve as repreſentatives of the people, in Aſſembly, ought to be free; and that all men, having ſufficient evidence of permanent common intereſt with, and attachment to, the community, have the right of ſuffrage, and cannot be taxed or deprived of their property for public uſes, without their own conſent, or that of their repreſentatives ſo elected, nor bound by any law to which they have not, in like manner, aſſented, for the public good.

VII. THAT all power of ſuſpending laws, or the execution of laws, by any authority without conſent of the repreſentatives of the people, is injurious to their rights, and ought not to be exerciſed.

VIII. THAT in all capital or criminal proſecutions, a man hath a right to demand the cauſe and nature of his accuſation, to be confronted with the accuſers and witneſſes, to call for evidence in his favor, and to a ſpeedy trial by an impartial jury of his vicinage, without whoſe unanimous conſent he cannot be found guilty, nor can he be compelled to give evidence againſt himſelf; that no man be deprived of his liberty except by the law of the land, or the judgment of his peers.

IX. THAT exceſſive bail ought not to be required, nor exceſſive fines impoſed, nor cruel and unuſual puniſhments inflicted.

X. THAT general warrants, whereby an officer or meſſenger may be commanded to ſearch ſuſpected places without evidence of a fact committed, or

to seize any person or persons not named, or whose offence is not particularly described and supported by evidence, are grievous and oppressive, and ought not to be granted.

XI. THAT in controversies respecting property, and in suits between man and man, the ancient trial by jury is preferable to any other, and ought to be held sacred.

XII. THAT the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments.

XIII. THAT a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state; that standing armies, in time of peace, should be avoided, as dangerous to liberty; and that, in all cases, the military should be under strict subordination to, and governed by, the civil power.

XIV. THAT the people have a right to uniform government; and therefore, that no government separate from, or independent of, the government of *Virginia*, ought to be erected or established within the limits thereof.

XV. THAT no free government, or the blessing of liberty, can be preserved to any people but by a firm adherence to justice, moderation, temperance, frugality, and virtue, and by frequent recurrence to fundamental principles.

XVI. THAT religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence, and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practise Christian forbearance, love, and charity, towards each other.

CHAP. II.

The Constitution or Form of Government, agreed to and resolved upon by the Delegates and Representatives of the several Counties and Corporations of VIRGINIA.

Preamble.

I. WHEREAS *George* the third, King of *Great-Britain* and *Ireland*, and Elector of *Hanover*, heretofore entrusted with the exercise of the kingly office in this government, hath endeavored to pervert the same into a detestable and insupportable tyranny, by putting his negative on laws the most wholesome and necessary for the public good: By denying his Governors permission to pass laws of immediate and pressing importance, unless suspended in their operation for his assent, and, when so suspended, neglecting to attend to them for many years: By refusing to pass certain other laws, unless the persons to be benefited by them would relinquish the inestimable right of representation in the Legislature: By dissolving Legislative Assemblies repeatedly and continually, for opposing with manly firmness his invasions of the rights of the people: When dissolved, by refusing to call others for a long space of time, thereby leaving the political system without any Legislative head: By endeavoring to prevent the population of our country, and, for that purpose, obstructing the laws for the naturalization of foreigners: By keeping among us in time of peace, standing armies and ships of war: By affecting to render the military independent of, and superior to, the civil power: By combining with others to subject us to a foreign jurisdiction, giving his assent to their pretended acts of Legislation: For quartering large bodies of armed troops among us: For cutting off our trade with all parts of the world: For imposing taxes on us without our consent: For depriving us of the benefits of the trial by jury: For transporting us beyond seas, to be tried for pretended offences: For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever: By plundering our seas, ravaging our coasts, burning our towns, and destroying the lives of our people: By inciting insurrections of our fellow subjects, with the allurements of forfeiture and confiscation: By prompting our negroes to rise in arms among us, those very negroes, whom, by an inhuman use of his negative, he hath refused us permission to exclude by law: By endeavoring to bring on the inhabitants of our frontiers, the merciless *Indian* savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, and conditions of existence: By transporting at this time, a large army of foreign mercenaries, to complete the works of death, desolation, and tyranny, already begun with circumstances of cruelty and perfidy unworthy the head of a civilized nation: By answering our repeated petitions for redress with a repetition of injuries: And finally, by abandoning the helm of government, and declaring us

Enumerating Instances of royal misrule.

out of his allegiance and protection. By which several acts of misrule, the government of this country, as formerly exercised under the crown of *Great Britain*, is totally dissolved. Former government dissolved.

II. WE therefore, the Delegates and Representatives of the good people of *Virginia*, having maturely considered the premises, and viewing with great concern the deplorable condition to which this once happy country must be reduced, unless some regular, adequate mode of civil polity is speedily adopted, and in compliance with a recommendation of the General Congress, do ordain and declare the future form of government of *Virginia* to be as followeth: Another declared.

III. THE Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the other; nor shall any person exercise the powers of more than one of them at the same time, except that the Justices of the county courts shall be eligible to either House of Assembly. Legislative, Executive, and Judiciary, separated, with an exception.

IV. THE Legislative shall be formed of two distinct branches, who, together, shall be a complete Legislature. They shall meet once or oftener, every year, and shall be called the General Assembly of *Virginia*. Legislative formed of two Houses, called General Assembly, shall meet every year, once or oftener;

V. ONE of these shall be called the House of Delegates, and consist of two Representatives to be chosen for each county, and for the district of *West Augusta*, annually, of such men as actually reside in and are freeholders of the same, or duly qualified according to law; and also one Delegate or Representative to be chosen annually for the city of *Williamsburg*, and one for the borough of *Norfolk*, and a Representative for each of such other cities and boroughs as may hereafter be allowed particular representation by the Legislature; but when any city or borough shall so decrease, as that the number of persons having right of suffrage therein shall have been for the space of seven years successively less than half the number of voters in some one county in *Virginia*, such city or borough thenceforward shall cease to send a Delegate or Representative to the Assembly. One of them to be called the House of Delegates, members of which, how qualified, and for what places chosen. When a corporation's right to representation shall cease.

VI. THE other shall be called the Senate, and consist of twenty-four members, of whom thirteen shall constitute a House to proceed on business, for whose election the different counties shall be divided into twenty-four districts, and each county of the respective district, at the time of the election of its Delegates, shall vote for one Senator, who is actually a resident and freeholder within the district, or duly qualified according to law, and is upwards of twenty-five years of age; and the sheriffs of each county, within five days at farthest after the last county election in the district, shall meet at some convenient place, and, from the poll so taken in their respective counties, return as a Senator the man who shall have the greatest number of votes in the whole district. To keep up this Assembly by rotation, the districts shall be equally divided into four classes, and numbered by lot. At the end of one year after the general election, the six members, elected by the first division, shall be displaced, and the vacancies thereby occasioned supplied from such class or division, by new election, in the manner aforesaid. This rotation shall be applied to each division, according to its number, and continued in due order annually. Of what number of members the other, called the Senate, shall consist, and how they shall be chosen.

VII. THAT the right of suffrage in the election of members of both Houses shall remain as exercised at present, and each House shall choose its own Speaker, appoint its own officers, settle its own rules of proceeding, and direct writs of election for supplying intermediate vacancies. Each House may choose its Speaker and officers, and issue writs for supplying vacancies.

VIII. ALL laws shall originate in the house of Delegates, to be approved or rejected by the Senate, or to be amended with the consent of the House of Delegates, except money bills, which in no instance shall be altered by the Senate, but wholly approved or rejected. Laws shall originate in the House of Delegates, but, if not money bills, amendable by the Senate.

IX. A GOVERNOR, or Chief Magistrate, shall be chosen annually, by joint ballot of both Houses, to be taken in each House respectively, deposited in the conference room; the boxes examined jointly by a Committee of each House; and the numbers severally reported to them, that the appointments may be entered (which shall be the mode of taking the joint ballot of both Houses in all cases) who shall not continue in that office longer than three years successively, nor be eligible until the expiration of four years after he shall have been out of that office. An adequate, but moderate salary, shall be settled on him during his continuance in office; and he shall, with the advice of a Council of State, exercise the executive powers of government according to the laws of this commonwealth; and shall not, under any pretence, exercise any power or prerogative by virtue of any law, statute, or custom of *England*: But he shall, with the advice of the Council of State, have the power Governor, how chosen; method of balloting in this and other cases; his salary and powers; restrained from granting reprieves or pardons in certain cases.

of granting reprieves or pardons, except where the profecution ſhall have been carried on by the Houſe of Delegates, or the law ſhall otherwiſe particularly direct; in which caſes, no reprieve or pardon ſhall be granted, but by reſolve of the Houſe of Delegates.

When he may convoke the General Aſſembly.

X. EITHER Houſe of the General Aſſembly may adjourn themſelves reſpectively. The Governor ſhall not prorogue or adjourn the Aſſembly during their ſitting, nor diſſolve them at any time; but he ſhall, if neceſſary, either by advice of the Council of State, or on application of a majority of the Houſe of Delegates, call them before the time to which they ſhall ſtand prorogued or adjourned.

Privy Council, number of; their duty, power, and time of continuance in office.

XI. A PRIVY Council or Council of State, conſiſting of eight members, ſhall be choſen by joint ballot of both Houſes of Aſſembly, either from their own members or the people at large, to aſſiſt in the adminiſtration of government. They ſhall annually chooſe out of their own members a Preſident, who, in caſe of the death, inability, or neceſſary abſence of the Governor from the government, ſhall act as Lieutenant Governor. Four members ſhall be ſufficient to act, and their advice and proceedings ſhall be entered of record, and ſigned by the members preſent (to any part whereof any member may enter his diſſent) to be laid before the General Aſſembly, when called for by them. This Council may appoint their own clerk, who ſhall have a ſalary ſettled by law, and take an oath of ſecrecy in ſuch matters as he ſhall be directed by the Board to conceal. A ſum of money appropriated to that purpoſe ſhall be divided annually among the members in proportion to their attendance; and they ſhall be incapable during their continuance in office, of ſitting in either Houſe of Aſſembly. Two members ſhall be removed, by joint ballot of both Houſes of Aſſembly, at the end of every three years, and be ineligible for the three next years. Theſe vacancies, as well as thoſe occaſioned by death or incapacity, ſhall be ſupplied by new elections, in the ſame manner.

Delegates to Congreſs, how choſen.

XII. THE Delegates for *Virginia* to the Continental Congreſs ſhall be choſen annually, or ſuperceded in the mean time by joint ballot of both Houſes of Aſſembly.

Military regulations.

XIII. THE preſent militia officers ſhall be continued, and vacancies ſupplied by appointment of the Governor, with the advice of the Privy Council, or recommendations from the reſpective County Courts; but the Governor and Council ſhall have a power of ſuſpending any officer, and ordering a court-martial, on complaint of miſbehaviour or inability, or to ſupply vacancies of officers happening when in actual ſervice. The Governor may embody the militia, with the advice of the Privy Council, and when embodied, ſhall alone have the direction of the militia under the laws of the country.

Courts of Appeals, General, of Equity, and Admiralty, judges of; Secretary, and Attorney General, how appointed; ſalaries of; excluded with ſome others, from the Legiſlative and Executive.

XIV. THE two Houſes of Aſſembly ſhall, by joint ballot, appoint Judges of the Supreme Court of Appeals, and General Court, Judges in Chancery, Judges of Admiralty, Secretary, and the Attorney General, to be commiſſioned by the Governor, and continue in office during good behaviour. In caſe of death, incapacity, or reſignation, the Governor, with the advice of the Privy Council, ſhall appoint perſons to ſucceed in office, to be approved or diſplaced by both Houſes. Theſe officers ſhall have fixed and adequate ſalaries; and, together with all others holding lucrative offices, and all Miniſters of the Goſpel of every denomination, be incapable of being elected members of either Houſe of Aſſembly, or the Privy Council.

Counties, Juſtices of, how appointed; ſhall nominate their clerks, recommend ſheriffs and coroners to be commiſſioned by Executive; and appoint conſtables.

XV. THE Governor, with the advice of the Privy Council, ſhall appoint Juſtices of the Peace for the counties; and in caſe of vacancies, or a neceſſity of increaſing the number hereafter, ſuch appointments to be made upon the recommendation of the reſpective County Courts. The preſent acting Secretary in *Virginia*, and Clerks of all the County Courts, ſhall continue in office. In caſe of vacancies, either by death, incapacity, or reſignation, a Secretary ſhall be appointed as before directed, and the clerks by the reſpective courts. The preſent and future clerks ſhall hold their offices during good behaviour, to be judged of and determined in the General Court. The Sheriffs and Coroners ſhall be nominated by the reſpective courts, approved by the Governor, with the advice of the Privy Council, and commiſſioned by the Governor. The Juſtices ſhall appoint Conſtables, and all fees of the aforeſaid officers to be regulated by law.

Impeachments.

XVI. THE Governor, when he is out of office, and others offending againſt the ſtate, either by mal-adminiſtration, corruption, or other means by which the ſafety of the ſtate may be endangered, ſhall be impeachable by the Houſe of Delegates. Such impeachment to be proſecuted by the Attorney General, or ſuch other perſon or perſons as the Houſe may appoint in the General Court, according to the laws of the land. If found guilty

he or they shall be either forever disabled to hold any office under government, or removed from such office *pro tempore*, or subjected to such pains or penalties as the law shall direct.

XVII. IF all, or any of the Judges of the General Court, shall, on good grounds (to be judged of by the House of Delegates) be accused of any of the crimes or offences beforementioned, such House of Delegates may, in like manner, impeach the Judge or Judges so accused, to be prosecuted in the Court of Appeals; and he or they, if found guilty, shall be punished in the same manner as is prescribed in the preceding clause.

XVIII. COMMISSIONS and grants shall run *In the name of the* COMMONWEALTH *of* VIRGINIA, and bear teste by the Governor, with the seal of the Commonwealth annexed. Writs shall run in the same manner, and bear teste by the clerks of the several courts. Indictments shall conclude, *Against the peace and dignity of the Commonwealth.* Commissions, grants and writs, stile, and teste of. Indictments, conclusion of.

XIX. A TREASURER shall be appointed annually, by joint ballot of both Houses. Treasurer.

XX. ALL escheats, penalties, and forfeitures, heretofore going to the King, shall go to the Commonwealth, save only such as the Legislature may abolish, or otherwise provide for. Escheats, penalties, forfeitures.

XXI. THE territories contained within the charters erecting the colonies of *Maryland*, *Pennsylvania*, *North* and *South Carolina*, are hereby ceded, released, and forever confirmed to the people of those colonies respectively, with all the rights of property, jurisdiction, and government, and all other rights whatsoever which might at any time heretofore have been claimed by *Virginia*, except the free navigation and use of the rivers *Potowmac* and *Pohomoke*, with the property of the *Virginia* shores or strands bordering on either of the said rivers, and all improvements which have been or shall be made thereon. The western and northern extent of *Virginia* shall, in all other respects, stand as fixed by the charter of King *James* the first, in the year one thousand six hundred and nine, and by the public treaty of peace between the Courts of *Great-Britain* and *France*, in the year one thousand seven hundred and sixty-three; unless, by act of Legislature, one or more territories shall hereafter be laid off, and governments established westward of the *Alleghany* mountains. And no purchase of lands shall be made of the *Indian* natives but on behalf of the public, by authority of the General Assembly. Territorial limits; cession to co-terminous states; future governments west of Mount Allegheny, how to be established. No purchases from Indian natives, but for republic.

XXII. IN order to introduce this government, the representatives of the people met in Convention shall choose a Governor and Privy Council, also such other officers directed to be chosen by both Houses as may be judged necessary to be immediately appointed. The Senate to be first chosen by the people, to continue until the last day of *March* next, and the other officers until the end of the succeeding session of Assembly. In case of vacancies, the Speaker of either House shall issue writs for new elections.

At a *General Assembly* summoned to be held at the Capitol, in the City of *Williamsburg*, on the 1st Day of *August*, in the 9th Year of the Reign of *George* the Second, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and from thence continued by several Prorogations to the 5th Day of *August*, in the 10th Year of his said Majesty's Reign, and in the Year of our Lord 1736.

CHAP. III. 1736.

* *An Act for confirming and better securing the Titles to Lands in the* Northern Neck, *held under the Right Honorable* Thomas *Lord* Fairfax, *Baron of* Cameron, *in that part of* Great-Britain, *called* Scotland.

I. WHEREAS the late King *Charles* II. by certain letters patents, under the great seal of *England*, bearing date at *Westminster*, the eighth day of *May*, in the one and twentieth year of his reign, reciting, that he, taking into his royal consideration the propagation of the *Christian* faith, and the mani- Recital of the patent, 21 Car. 2. wherein is recited another patent 1 ejusdem Regis.

* *Vide post*, *chap.* 4. *Revised Code*, (1785) 110.

Oct. 1779, *chap.* 18.
Oct. 1782, *chap.* 8. 33 } 176. 180. 206.
May 1783. *chap.* 38.

1784, *chap.* 91. 1785, *chap.* 42, 47. 1786, *chap.* 3. 1787, *chap.* 38. *Acts of* 1796, *chap.* 14.

fold benefits arising to the church of God, together with the welfare of multitudes of his loyal subjects, by the undertaking and vigorous prosecution of plantations of foreign parts, and particularly in his dominions of *America*, by his letters patent, under the great seal of *England*, bearing date at *St. Germains en Ley*, the eighteenth day of *September*, in the first year of his reign, for the consideration therein expressed, had given, granted, and confirmed, unto *Ralph* Lord *Hopton*, *Henry* Earl of *St. Alban's*, by the then name of *Henry* Lord *Jermyn*, *John* Lord *Culpeper*, *John* Lord *Berkeley*, of *Stratton*, by the then name of Sir *John Berkeley*, Sir *William Morton*, one of the Justices of his court of *King's Bench*, by the then name of Sir *William Morton*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, their heirs and assigns, forever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded within the heads of the rivers *Rappahannock* and *Quiriough*, or *Potowmac* river, the courses of the said rivers, as they are commonly called and known by the inhabitants, and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, and rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of Sea, fish royal, deer, wild beasts, and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, and arising, renewing, accruing, found, or taken, within the bounds or precincts aforesaid, together with the royalty of hawking and hunting, for themselves, their heirs, and assigns, servants, and tenants, in and upon the lands and premises aforesaid; saving and reserving to him, his heirs and successors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all silver mines, or silver ore, thereafter to be found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Ralph* Lord *Hopton*, *Henry*, then Lord *Jermyn*, now Earl of *St. Alban's*, *John* Lord *Culpeper*, Sir *John Berkeley*, now Lord *Berkeley*, of *Stratton*, Sir *William Morton*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, their heirs, and assigns, forever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of St. *John* the Baptist, to his said Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four pence, at the receipt of *Jamestown*, in the dominion of *Virginia*, in lieu of all services and demands whatsoever: Reciting also that the said *Ralph* Lord *Hopton*, *John* Lord *Culpeper*, Sir *Dudley Wyatt*, and *Thomas Culpeper*, being dead, and the said Lord *Hopton* having sold his estate and interest in the premises to *John Trethewey*, Esq. the said tract, territory, or parcel of land, and all and singular other the premises, had been surrendered, together with the said letters patents, to be cancelled, to the intent that his said late Majesty might grant them new letters patent thereof, with such alterations, provisoes, and clauses, as therein after is expressed, he the said late King, in consideration of the said surrender, and for and in consideration of the many and faithful services done to his late royal father, of blessed memory, and to himself, by the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, Esq. and for divers other good causes and considerations, him thereunto especially moving, of his especial grace, certain knowledge, and mere motion, did give, grant, and confirm, unto the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs and assigns, forever, all that entire tract, territory, or parcel of land, situate, lying, and being in *America*, and bounded by and within the head of the rivers *Tappahannock*, alias *Rappahannock*, and *Quiriough*, alias *Potowmac* rivers, the courses of the said rivers, as they are commonly called and known by the inhabitants and descriptions of those parts, and *Chesapeake* bay, together with the rivers themselves, and all the islands within the banks of those rivers, and all woods, under woods, timber, and trees, ways, waters, rivers, ponds, pools, water courses, fishings, streams, havens, ports, harbours, creeks, wrecks of sea, fish royal, deer, wild beast and fowl, of what nature and kind soever, mines of gold and silver, lead, tin, iron, and copper, and quarries of stone and coal, which then were, or at any time thereafter should be had, coming, being, arising, renewing, accruing, found or taken, within the bounds or precincts aforesaid, together with the royalties of hawking and hunting, for themselves, their heirs and assigns, servants and tenants, in and upon the land and premises aforesaid, and in and upon

The death of some of the first patentees; Lord Hopton's sale; and the surrender of the first patent.

Consideration.

The grant.

every part and parcel thereof; saving, excepting, and reserving, to his said late Majesty, his heirs, and successors, one full fifth part of the whole, in five parts to be divided, of all gold mines, or gold ore, one full tenth part of all silver mines, and silver ore, thereafter to be had or found within the said tract or territory of land, to have, hold, and enjoy, all the said entire tract, territory, or portion of land, and all and singular other the premises, with their and every of their appurtenances, thereby granted or mentioned, or intended to be granted (except as before is excepted) to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, forever, to their only use and behoof, and to no other use, intent, or purpose, whatsoever; yielding and paying therefore, yearly, at the feast of St. *John* the Baptist, to his said late Majesty, his heirs, and successors, the sum of six pounds thirteen shillings and four pence, at the receipt of *Jamestown* in *Virginia*, in lieu of all services and demands whatsoever; with power to divide the said tract or territory of land into counties, hundreds, parishes, tithings, townships, hamlets, and boroughs, and to erect and build cities, towns, parish churches, colleges, chapels, free schools, alms houses, and houses of correction, and to endow the same, at their free wills and pleasures; and did appoint them full and perpetual patrons of all such churches so to be built and endowed, with power of electing, nominating, and presenting, any fit person to the office and place of master of any college, or schoolmaster of any school so to be founded and endowed; with power also to divide any part or parcels of the said tract or territory, or portion of lands, into manors, and to call the same after their own or any of their names, or by other name or names whatsoever, and within the same to hold a court, in the nature of a court baron, and to hold pleas of all actions, trespasses, covenants, accounts, contracts, detinues, debts, and demands whatsoever, where the debt or thing demanded exceed not the value of forty shillings of current money of *England*, and to receive and take all amerciaments, fines, commodities, advantages, perquisites, and emoluments whatsoever, to such respective court barons belonging, or in any wise appertaining: And further, to hold within the said manors a court leet, and view of frank pledge, of all the tenants, residents, and inhabitants, of the hundreds within such respective manors, to be holden twice in every year, and to erect fairs, markets, courts of pipowder, with all things incident thereto; and to erect parks for breeding, feeding, and sustentation of deer, and other wild beasts of chase: And further, the said late king, by the said charter, for himself, his heirs, and successors, did grant and give license to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, freely and without molestation of him, his heirs, and successors, to give, grant, or by any ways or means sell or alien, all and singular the premises by these presents granted, and every part and parcel thereof, to any person or persons being willing to contract for or buy the same; to be holden of the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, as of any of their aforesaid manors, in free and common soccage, by fealty only, and by suit of court, or by any other lawful tenure or terms used within the kingdom of *England*, rendering and paying such rents and other lawful reservations, as shall seem fit and convenient to the said *Henry* Earl of *St. Alban's*, *John* Lord *Berkeley*, Sir *William Morton*, and *John Trethewey*, their heirs, and assigns, notwithstanding the statute, commonly called *quia emptores terrarum*, or any other statute, act, or ordinance, or provision, or any other thing, cause, or matter whatsoever, to the contrary notwithstanding: And further, the said late king, for himself, his heirs, and successors, did grant to the said patentees, their heirs, executors, and assigns, to enlarge and confirm the said letters patent, by granting to them and their heirs other new ones, with such favorable concessions and grants as might supply any defects therein contained; with this proviso, nevertheless, that the said letters patent, or any thing therein contained, should not extend, or be construed to extend, to infringe, make void, or otherways prejudice, any contract or contracts, grant or grants, whatsoever, theretofore made or granted by the Governor and Council of *Virginia*, unto any planters, or other inhabitants, then in the actual possession thereof, by virtue of any such grants made before the nine and twentieth day of *September*, in the thirteenth year of his reign; but if any part of such lands so granted should escheat, or be otherwise forfeited, then the said patentees, their heirs, and assigns, might dispose thereof, for their best benefit and advantage, at their own free wills and pleasures; with this proviso also, that so much of the said granted premises, as within the time and space of one and twenty years then next following

Habendum.

Reservation of rent.

The powers granted to the patentees.

New patent to be granted.

Proviso as to seating

should not be poſſeſſed, inhabited, or planted, by the means or procurement of the ſaid patentees, their heirs, or aſſigns, that then the ſaid letters patent ſhould ceaſe, determine, and become void; and laſtly, with this further proviſo, that the ſaid patentees, their heirs, and aſſigns, ſhould not act or intermeddle in the military affairs or forces of or within the ſaid tract of land and premiſes thereby granted, or any part thereof, or with the government or command of any of the caſtles, forts, or fortifications thereof, without the order, authority, or command, of the Governor and Council of *Virginia*, for the time being, or ſuch other perſon or perſons as his ſaid late Majeſty, his heirs, or ſucceſſors, ſhould think fit to diſpoſe the ſame; and that the Governor, Council, and Aſſembly of *Virginia*, for the time being, ſhould have full power and authority to impoſe and lay any taxes and impoſitions upon the ſaid territories thereby granted, and all the lands and premiſes thereby meant and intended to be granted, and all and every the poſſeſſor, inhabitants thereof, for the public and common defence of the ſaid colony of *Virginia*, and the territory and lands thereby granted, as upon other parts of *Virginia*, proportionably, when and as often as the neceſſity of the ſaid colony ſhould require the ſame for the common good; and that the ſaid patentees, their heirs, and aſſigns, and other inhabitants of or in the premiſes, ſhould be in all things ſubject and obedient to ſuch laws and conſtitutions as were or ſhould be made by the ſaid Governor, Council, and Aſſembly, for or concerning the ſaid colony, or the government thereof; any thing therein before contained to the contrary notwithſtanding, as in the ſaid letters patent more fully is contained.

Patentees not to intermeddle with military affairs.

Inhabitants ſubject to the payment of taxes.

And the laws of the colony.

Recital of the patent, 4 Jac. 2. which recites the beforementioned letters patents, and the ſale to the Lord Culpeper.

II. AND whereas the late King *James* II. by other letters patent, under the great ſeal of *England*, bearing date at *Weſtminſter*, the ſeven and twentieth day of *September*, in the fourth year of his reign, reciting the above recited letters patents; and that the ſaid former patentees, their heirs, and aſſigns, had, by good and ſufficient conveyance and aſſurance in the law, for valuable conſiderations, ſold, conveyed, and aſſured, the ſaid whole tract, territory, and portion of land, and all and ſingular the premiſes, and every part and parcel thereof, and all their eſtate, right, title, and intereſt therein, together with the ſaid letters patents, unto *Thomas* Lord *Culpeper*, eldeſt ſon and heir of *John* late Lord *Culpeper*, deceaſed, his heirs, and aſſigns, forever, who was thereby become ſole owner and proprietor thereof, in fee ſimple, for the conſiderations therein mentioned, and did give, grant, and confirm, unto the ſaid *Thomas* Lord *Culpeper*, all that entire tract, territory, or parcel of land, ſituate, lying, and being in *Virginia*, in *America*, and bounded by and within the firſt heads or ſprings of the rivers of *Tappahannock* (alias *Rappahannock*) and *Quiriough* (alias *Patowmack*) rivers, the courſes of the ſaid rivers, from their ſaid firſt heads or ſprings, as they were commonly called and known by the inhabitants, and deſcriptions of thoſe parts, and the bay of *Cheſapeake*, together with the ſaid rivers themſelves, and all the iſlands within the uttermoſt banks thereof, and the ſoil of all and ſingular the premiſes, and all lands, woods, under woods, timber, and trees, ways, mountains, ſwamps, marſhes, waters, rivers, ponds, pools, lakes, water courſes, fiſhings, ſtreams, havens, ports, harbours, bays, creeks, ferries, with all ſorts of fiſh, as well whales, ſturgeons, and other royal fiſhes, as all others whatſoever, wrecks of ſea, *Floatſon*, *Jetſon*, and *Lagan*, and all ſorts of deer, wild beaſts, and fowl, of what nature or kind ſoever, and all manner of deodands, goods of felons and fugitives, treaſures trove, waifs, ſtrays, fines, forfeitures, eſcheats, advowſons, royalties, and hereditaments whatſoever, with all mines of gold and ſilver, lead, tin, iron, and copper, and all quarries of ſtone and coal, within the limits and precincts aforeſaid, which then were, or at any time thereafter ſhould be had, coming, being, ariſing, growing, renewing, accruing, found, or taken, within the bounds, limits, precincts, or places aforeſaid; ſaving, excepting, and reſerving, to his ſaid late Majeſty, his heirs, and ſucceſſors, one full fifth part of all gold mines, or gold ore, and one full tenth part of all ſilver mines, and ſilver ore, then being, or which thereafter ſhould be had or found, within the ſaid tract or territory of land; to have, hold, and enjoy, all the ſaid entire tract, territory, or portion of land, and every part and parcel thereof, and all and ſingular other the premiſes, with their and every of their appurtenances thereby granted or mentioned, or intended to be granted (except as before is excepted) to the ſaid *Thomas* Lord *Culpeper*, his heirs, and aſſigns, for ever, to his and their only uſe and behoof, and to no other uſe, intent, or purpoſe whatſoever; yielding and paying therefore, yearly, from thenceforth, on the feaſt of St. *John* the Baptiſt, to his ſaid late Majeſty, his heirs, and ſucceſſors, the ſum of ſix pounds thirteen ſhillings and four pence, at the receipt of

The grant.

Habendum.

Reſervation of rent.

Jamestown, in the colony of *Virginia*, in lieu of all ſervices and demands whatſoever, the firſt payment to be made on the feaſt day of St. *John* the Baptiſt next enſuing the date of the ſaid letters patent: And his ſaid late Majeſty did thereby for himſelf, his heirs, and ſucceſſors, further give, grant, ratify, and confirm to the ſaid *Thomas* Lord *Culpeper*, his heirs, and aſſigns, for ever, all and ſingular the grants, powers, authorities, privileges, licenſes, and clauſes, in the ſaid herein before recited letters patents mentioned, granted, or conveyed, in as large and ample manner, to all intents and purpoſes whatſoever, as if the ſame, and every of them, had been particularly granted and expreſſed in theſe his letters patent, except only the abovementioned proviſo; and his ſaid late Majeſty did further, of his eſpecial grace, certain knowledge, and mere motion, for himſelf, his heirs, and ſucceſſors, fully and abſolutely, for ever, releaſe and diſcharge the ſaid abovementioned proviſo, and every part thereof, and every matter and thing therein contained, in as large and ample manner, to all intents and purpoſes whatſoever, as if the ſame had never been made, thereby declaring the ſame to be null and void; and the ſaid *Thomas* Lord *Culpeper*, his heirs, and aſſigns, and the tract, territory, and premiſes, and every part thereof, to be for ever freed, cleared, and diſcharged, from the ſame, ſo and in ſuch manner that the ſaid *Thomas* Lord *Culpeper*, his heirs, and aſſigns, might freely and abſolutely enter into, have, hold, occupy, poſſeſs, and enjoy, the ſaid tract, territory, and all and ſingular other the premiſes, freed and diſcharged of the ſaid proviſo, and all right, title, and equity, thereupon to be had, in as large, ample and beneficial manner, to all intents and purpoſes, as if the ſame proviſo had been never had or made, any thing in the ſaid recited letters patent, or any thing therein, or in the laſt mentioned letters patent, to the contrary thereof, in any wiſe notwithſtanding, as in the ſaid laſt recited letters patent is more fully contained.

That the validity of grants made by the agents or attornies of the preſent proprietor and his predeceſſors have been queſtioned.

III. AND whereas the Right Honourable *Thomas* Lord *Fairfax*, baron of *Cameron*, in that part of *Great-Britain* called *Scotland*, heir at law to the ſaid *Thomas* Lord *Culpeper*, is now become ſole proprietor of the ſaid territory, with the appurtenances, and the above recited letters patents; and whereas divers great quantities of land have been granted to adventurers and planters within the ſaid territory, in fee ſimple, by the agents and attornies of the ſaid Lord *Fairfax*, and his predeceſſors, former proprietors of the ſaid territory, and letters patents, by virtue of divers letters of attorney, from time to time, by them reſpectively given and granted to their ſaid attornies and agents, but now of late, after long poſſeſſions, and great and valuable improvements made upon the ſaid lands, by ſuch grantees, queſtions are like to ariſe between them and the ſaid preſent proprietor touching the validity of ſuch grants, as well in reſpect to a conſtruction ſet up and maintained, of the ſaid letters of attorney, that the powers therein contained were not full and ſufficient to enable and warrant the ſaid agents and attornies to paſs away eſtates in fee ſimple, as in reſpect of the ſaid Lord proprietor's eſtate in the premiſes, the ſame being now held by him as tenant in taille, under the will or wills of ſome of his anceſtors, whereby the minds of many of his Majeſty's good ſubjects, poſſeſſors of lands and tenements within the ſaid territory, are greatly diſquieted, and many controverſies and expenſive lawſuits may probably enſue: For the prevention whereof, and for ſettling peace between his Lordſhip and his ſaid tenants,

A confirmation of theſe grants.

IV. *BE it enacted, by the Lieutenant Governor, Council and Burgeſſes, of this preſent General Aſſembly, and it is hereby enacted, by the authority of the ſame*, that from henceforth all and every grant and grants, heretofore duly and regularly made and paſſed by any of the agents or attornies of the proprietors of the ſaid territory, or any of them, ſhall be good, available, and binding in law, to paſs ſuch eſtate or eſtates as therein have been granted; and the grantees, their heirs, and aſſigns, reſpectively, ſhall for ever hereafter peaceably and quietly have, hold, and enjoy, the ſame granted premiſes, according to ſuch granted eſtates, under the rents and ſervices by the ſaid grants reſerved, notwithſtanding the infancy, coverture, or any miſpriſion or miſtake of the names, dignity, or title, of the ſaid proprietors, or either of them, or any miſ-recital, omiſſion, or defect, in the ſaid grant or grants, or any of them, ſo as the ſame have been made and ſigned by the agents or attornies of the ſaid proprietors, or the huſband, guardian or guardians, truſtee or truſtees, of any of them, and paſſed under the common ſeal of the office kept by them for that purpoſe.

At a *General Assembly* begun and held at the College in *Williamsburg*, the 27th Day of *October*, in the 22d Year of the Reign of *George* the Second, by the Grace of God, of *Great-Britain*, *France*, and *Ireland*, King, Defender of the Faith, &c. and in the Year of our Lord 1748.

CHAP. IV.

An Act for confirming the Grants made by his Majesty within the Bounds of the Northern Neck, *as they are now established**.

Preamble.

I. WHEREAS in the late dispute and controversy touching the limits and boundaries of the several letters patent granted by their late Majesties King *Charles* the Second, and King *James* the Second, unto the ancestors of the Right Honourable *Thomas* Lord *Fairfax*, it hath been adjudged and determined by his present Majesty in Council, that the said letters patent do include all that tract or territory of land between the rivers *Potowmac* and *Rappahannock*, and the line now marked from the head spring of the said river *Potowmac*, to the head spring of *Rappahannock*, commonly called the *Conway*, in which said tract or territory of land, as is before described, many adventurers and planters have taken up great quantities of land, and obtained grants and patents thereof from the Crown, under seal of this colony; and whereas the said *Thomas* Lord *Fairfax* hath consented before the King, in Council, that the several grants and patents, made by the Crown, of the lands included in the boundary aforesaid, should be confirmed to the several grantees, their heirs and assigns, to be held nevertheless of the said Lord *Fairfax*, under the like rents, services, profits, and emoluments, as should be paid, done, and arise, by and from the said grants made by the Crown:

Grants from the Crown of lands in the Northern Neck confirmed, but the rents and services shall be to the Lord Fairfax and his heirs.

II. *BE it therefore enacted, by the Lieutenant Governor, Council, and Burgesses, of this present General Assembly, and it is hereby enacted, by the authority of the same*, that all grants and patents whatsoever under the seal of this colony, for lands situate and lying within the limits and boundaries of the letters patent granted to the ancestors of the said Lord *Fairfax*, as the same are now settled and determined, heretofore made and granted by the Crown, shall be held, deemed, and taken, to be valid and effectual; and the adventurers and planters to whom the same were granted, their heirs and assigns, shall for ever hereafter peaceably and quietly have, hold, and enjoy the said granted premises, respectively, according to such granted estates, under the rents and services in the said grants reserved, to be paid and performed to the said *Thomas* Lord *Fairfax*, his heirs and assigns for ever, any misrecital or defect in the said grants notwithstanding.

1778

IN THE THIRD YEAR OF THE COMMONWEALTH.

At a *General Assembly*, begun and held at the CAPITOL, in the City of *Williamsburg*, on *Monday*, the 5th day of *October*, in the Year of our Lord 1778.

CHAP. V.

An Act to empower the freeholders of the several Towns not incorporated, to supply the Vacancies of the Trustees and Directors thereof.†

[Passed the 11th of December, 1778.]

Vacancies shall be supplied by election of freeholders summoned by sheriff upon notice; who shall certify to court the names of the elected.

I. BE *it enacted by the General Assembly*, That upon the death, removal out of the country, or other legal disability of any one or more of the Trustees and Directors of the several towns within this state not incorporated, such vacancy, so often as the same shall happen, shall hereafter be supplied in manner following, that is to say: The surviving Trustees and Directors, or one of them, shall give immediate notice of such vacancy to the sheriff of the county wherein such town may be, who within twenty days thereafter shall notify the same to the freeholders of the said town, in such manner as he may think best, requiring them to appear at a certain place therein, and on a certain day, not less than ten days thence next following, then and there to elect a

* *Vide ante, chap. 3, and notes thereto.* † *Revised Code, 1785, pa. 87.*

Truſtee in the room of the one ſo dying, removing, or diſabled. The ſheriff ſhall attend and take the poll at ſuch election, entering the names of the perſons voted for in a diſtinct column, and the name of every freeholder giving his vote under the name of the perſon he votes for; and when no freeholders appear to vote, the ſheriff ſhall cloſe the poll, and return the ſame to the next Court to be held for his County, upon oath, certifying the name of the perſon elected, to be by the Clerk recorded.

II. EVERY perſon elected in manner directed by this act, ſhall, to all intents and purpoſes, be a Truſtee of the town for which he was choſen.

III. SO much of all Acts of Aſſembly as are contrary to the purview and meaning of this Act, are hereby repealed.

At a *General Aſſembly*, begun and held at the Public Buildings, in the Town of *Richmond*, on *Monday*, the 6th Day of *May*, in the Year of our Lord 1782. 1782.

CHAP. VI.

An Act concerning Wrecks.

[Paſſed the 20th of June, 1782.]

Preamble.

I. WHEREAS many veſſels, have been and may hereafter be ſtranded on the ſea coaſt, bay or river ſhores within this Commonwealth, and the goods or other property belonging to ſuch veſſels may be embezzled and ſtolen, to the great injury of the owners: For remedy whereof, *Be it enacted by the General Aſſembly*, That it ſhall be lawful for the Governor, with advice of Council, and he is hereby required, to appoint and commiſſion two diſcreet perſons in each of the counties bordering on the ſea or bay ſhores in this ſtate, whoſe buſineſs and duty it ſhall be, on the earlieſt intelligence, or on application to them made, by or on behalf of any owner or commander of a ſhip or other veſſel, being in danger of being ſtranded, or being ſtranded, to command any Conſtable or Conſtables, to be appointed by them for that purpoſe, neareſt the coaſt where ſuch ſhip or veſſel ſhall be in danger, to ſummon as many men as ſhall be thought neceſſary to the aſſiſtance of ſuch ſhip or veſſel; and if there ſhall be any ſhip or veſſel belonging to the State riding near the place, the Commiſſioner or Commiſſioners ſhall have power to demand of the commanding officer of ſuch ſhip or veſſel, aſſiſtance by their boats and ſuch hands as they can conveniently ſpare; and if any commanding officer ſhall neglect to give ſuch aſſiſtance, he ſhall forfeit one hundred pounds, to be recovered by the officer or owner of the ſhip in diſtreſs, with coſts, in any Court of Record within this Commonwealth. The Commiſſioner or Commiſſioners, and the commanding officer of any ſhip or veſſel, and all others who ſhall aſſiſt in preſerving any ſhip or other veſſel in diſtreſs, or their cargoes, ſhall, within forty days, be paid a reaſonable reward by the commander or owner of the ſhip or other veſſel in diſtreſs, or by the merchant whoſe veſſel or goods ſhall be ſaved; and in default thereof, the veſſel or goods ſhall remain in the cuſtody of the Commiſſioner or Commiſſioners until all charges be paid, or ſecurity given for that purpoſe, to the ſatisfaction of the parties. And in caſe the parties ſhall diſagree, touching the monies deſerved by the perſons employed, it ſhall be lawful for the commander of ſuch veſſel ſaved, or the owner of the goods, or merchant intereſted, to chooſe one indifferent perſon, and alſo for the Commiſſioner or Commiſſioners to nominate one other indifferent perſon, who ſhall adjuſt the *quantum* of the gratuities to be paid to the ſeveral perſons, and ſuch adjuſtments ſhall be binding on all parties, and to be recoverable with coſts in any Court of Record within this Commonwealth, by action on the caſe. If no perſon ſhall claim the goods ſaved, the Commiſſioners, or one of them, ſhall take poſſeſſion thereof, and cauſe a true deſcription of the marks, numbers, and kinds of ſuch goods to be advertiſed four weeks in the *Virginia* Gazette, and if no perſon ſhall claim the ſame within three months, public ſale ſhall be made thereof, (but if periſhable, the goods ſhall be forthwith ſold) and after charges deducted, the reſidue of the money, with an account of the whole, ſhall be tranſmitted to the Treaſurer, who ſhall keep an account of the ſame, for the benefit of the owners, who upon proof of his property to the ſatisfaction of the Auditors, ſhall upon their warrant receive the ſame. If any perſon, beſides thoſe empowered by the Commiſſioners, or one of

Commiſſioners to be appointed on the ſea and bay ſhores.

Their duty on intelligence of a veſſel ſtranded or in danger.

Thoſe who aſſiſt in ſaving a veſſel or cargo to have a reward;

and may retain veſſel or goods till reward paid or ſecured.

Reward how to be aſcertained.

Proceeding if the goods ſaved be no claimed.

Penalty on thoſe who

Intermeddle without power from Commissioners.
Or hinder those employed in saving the goods.
Or deface the marks.

them, shall enter or endeavor to enter on board any vessel in distress, without the leave of the commanding officer, or in case any person shall molest them in saving the vessel or goods, or shall endeavor to hinder the saving such vessel or goods, or shall deface the marks of any such goods before they be taken down in a book by the Commissioners, or one of them, every such person shall forfeit and pay the sum of ten pounds, to be recovered with costs, by information in any Court of Record within this Commonwealth, and applied to the use of the owners of the vessel or goods, as the case may be; and in case of failure, to pay such forfeiture immediately, or giving security to pay the same within one month, he, she, or they, shall receive ten lashes on his, her, or their bare back, by order of such Court.

Commissioners may repel force by force.

It shall be lawful for any commanding officer of a vessel in distress, or the Commissioners, to repel by force any persons as shall, without consent as aforesaid, press on board any vessel in distress, and thereby molest them in preserving the vessel or goods; and in case any goods shall be found upon any person that were stolen or carried off from any vessel in distress, the person on whom such goods be found, shall, upon demand, deliver the same to the owner or Commissioners, or to such other person as shall be authorised by the Commissioners or owner to receive such goods, or shall be liable to pay treble the value, to be recovered, with costs, in any Court of Record.

Goods carried from a vessel in distress, and found in any person's possession, to be restored.

If any person shall make or be assisting in making a hole in any vessel in distress, or steal any pump, materials, or goods, or shall be aiding in stealing such pump, materials, or goods, from any vessel, or shall wilfully do any thing tending to the immediate loss of such vessel, such person shall be guilty of felony, and suffer death without benefit of clergy; any Commissioner by fraud or wilful neglect, abusing the trust reposed in him, shall, upon conviction thereof, forfeit and pay treble damages to the party aggrieved, to be recovered, with costs, by action on the case in any Court of Record, and shall thenceforth be incapable of acting as a Commissioner.

Penalty.

Death to make a hole in a vessel in distress.
Or steal pump materials or goods; or do any thing tending to the loss of the vessel.

Any Constable, or person, summoned by him, refusing or neglecting to give the assistance required for the saving of any vessel or her cargo, shall forfeit and pay twenty-five shillings, to be recovered before any Justice, by the Commissioners ordering the duty; and shall be moreover subject to the payment of the same damages, and to be recovered by the party aggrieved in the same manner, as in the case of a Commissioner.

Penalty on Commissioner abusing his trust;

and on constable and assistants for neglect.

The Commissioners shall set up a copy of this Act once in every year in each of the Courthouses of the Counties wherein they respectively reside.

Act to be set up in each courthouse.

II. *PROVIDED always, and be it further enacted*, That the Commissioners appointed by virtue of this act, shall respectively give bond and security in the Court of the County where he resides, in the sum of one thousand pounds, for the due and faithful execution of his office, and that it shall not be lawful for such Commissioner, or any of them, to enter upon the duties of his office before he gives bond and security as aforesaid.

Commissioners to give bond and security.

III. *AND be it further enacted*, That where any vessel shall be stranded and totally lost, goods saved from the wreck shall not be liable to entry and duties; but if any vessel be drove or cast on shore, and the damage sustained on the goods does not appear to exceed ten *per centum*, in the judgment of the Commissioners, such goods shall be duly entered with the Naval Officer nearest the place where the case happened, according to law.*

If vessel totally lost, goods saved to pay no duty.
If vessel cast on shore, and the damage on the goods not more than ten per cent. goods to be entered and pay duty.

1783. At a *General Assembly*, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord 1783.

CHAP. VII.

An Act to authorise the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the Right of this Commonwealth to the Territory North Westward of the River OHIO.†

[Passed the 20th of December, 1783.]

Preamble.

I. WHEREAS the Congress of the United States did, by their Act of the sixth day of *September*, in the year one thousand seven hundred and eighty, recommend to the several States in the Union, having claims to waste

* *This clause repealed by Congress U. S.* † *Vide post, chap.* 40.

and unappropriated lands in the Western Country, a liberal Cession to the United States, of a portion of their respective claims for the common benefit of the Union.

II. AND whereas this Commonwealth did, on the second day of *January*, in the year one thousand seven hundred and eighty-one, yield to the Congress of the United States, for the benefit of the said States, all right, title, and claim, which the said Commonwealth had to the territory North-west of the river *Ohio*, subject to the conditions annexed to the said act of Cession.

III. AND whereas the United States in Congress assembled, have, by their Act of the thirteenth of *September* last, stipulated the terms on which they agree to accept the cession of this State, should the Legislature approve thereof, which terms, although they do not come fully up to the propositions of this Commonwealth, are conceived on the whole, to approach so nearly to them, as to induce this State to accept thereof, in full confidence that Congress will, in justice to this State for the liberal Cession she hath made, earnestly press upon the other States claiming large tracts of waste and uncultivated territory, the propriety of making cessions equally liberal for the common benefit and support of the Union: *Be it enacted by the General Assembly*, that it shall and may be lawful for the Delegates of this State to the Congress of the United States, or such of them as shall be assembled in Congress, and the said Delegates, or such of them so assembled, are hereby fully authorised and empowered, for and on behalf of this State, by proper deeds or instrument in writing, under their hands and seals, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the benefit of the said States, all right, title, and claim, as well of soil as jurisdiction, which this Commonwealth hath to the territory or tract of country within the limits of the *Virginia* charter, situate, lying, and being to the North-west of the river *Ohio*, subject to the terms and conditions contained in the before recited Act of Congress, of the thirteenth day of *September* last, that is to say: Upon condition that the territory so ceded shall be laid out and formed into States, containing a suitable extent of territory, not less than one hundred, nor more than one hundred and fifty miles square, or as near thereto as circumstances will admit; and that the states so formed, shall be distinct Republican States, and admitted members of the Federal Union, having the same rights of sovereignty, freedom, and independence, as the other States; that the necessary and reasonable expenses incurred by this State in subduing any *British* posts, or in maintaining forts or garrisons within and for the defence, or in acquiring any part of the territory so ceded or relinquished, shall be fully reimbursed by the United States; and that one Commissioner shall be appointed by Congress, one by this Commonwealth, and another by those two Commissioners, who, or a majority of them shall be authorised and empowered to adjust and liquidate the account of the necessary and reasonable expenses incurred by this State, which they shall judge to be comprised within the intent and meaning of the Act of Congress of the tenth of *October*, one thousand seven hundred and eighty, respecting such expenses. That the *French* and *Canadian* inhabitants, and other settlers of the *Kaskaskies*, *St. Vincents*, and the neighbouring villages, who have professed themselves citizens of *Virginia*, shall have their possessions and titles confirmed to them, and be protected in the enjoyment of their rights and liberties. That a quantity not exceeding one hundred and fifty thousand acres of land, promised by this State, shall be allowed and granted to the then Colonel, now General *George Rogers Clarke*, and to the officers and soldiers of his regiment, who marched with him when the posts of *Kaskaskies* and *St. Vincents* were reduced, and to the officers and soldiers that have been since incorporated into the said regiment, to be laid off in one tract, the length of which not to exceed double the breadth, in such place on the North-west side of the *Ohio* as a majority of the officers shall choose, and to be afterwards divided among the said officers and soldiers in due proportion according to the laws of *Virginia*. That in case the quantity of good lands on the South-east side of the *Ohio*, upon the waters of *Cumberland* river, and between the *Green* river and *Tennessee* river, which have been reserved by law for the *Virginia* troops upon Continental establishment, should, from the *North-Carolina* line bearing in further upon the *Cumberland* lands than was expected, prove insufficient for their legal bounties, the deficiency should be made up to the said troops in good lands, to be laid off between the rivers *Scioto* and *Little Miami*, on the North-west side of the river *Ohio*, in such proportions as have been engaged to them by the laws of *Virginia*. That all the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the beforementioned purposes, or disposed

Delegates empowered to convey.

Conditions.

Reservations.

All the lands ceded to be a common fund for

the members of the Federal alliance, and for no other use.

of in bounties to the officers and soldiers of the *American* army, shall be considered as a common fund for the use and benefit of such of the United States as have become, or shall become members of the Confederation or Fœderal Alliance of the said States, *Virginia* inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever. *Provided*, that the trust hereby reposed in the Delegates of this State shall not be executed unless three of them, at least, are present in Congress.

Three members at least to execute the trust.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 17th Day of *October*, in the Year of our Lord 1785.

CHAP. VIII.

*An Act for securing to the Authors of Literary Works, an exclusive Property therein for a limited Time.**

[Passed the 21st of November, 1785.]

Exclusive right of printing their books vested in authors for a limited time.

I. BE *it enacted by the General Assembly*, That the author of any book or pamphlet already printed, being a citizen of any one of the United States, who has not transferred to any other person or persons, the copy or copies of such book, or pamphlet, share, or shares thereof, his heirs and assigns, or the person or persons who have purchased or acquired such copy or copies, share or shares, in order to print or re-print the same, his heirs and assigns, shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the term of twenty-one years, to be computed from the first publication thereof; and that the Author of any book or pamphlet already composed and not printed or published, or that shall hereafter be composed, being a Citizen, as aforesaid, his heirs and assigns, shall have the exclusive right of printing and re-printing such book or pamphlet, within this Commonwealth, for the like term of twenty-one years, to be computed from the first publication thereof. And if any person or persons whatsoever, shall print, re-print, or cause to be printed or re-printed, within this Commonwealth, any such book or pamphlet; or shall import into this Commonwealth, from any foreign Kingdom or State, any printed or re-printed copies of such book or pamphlet, without the consent of the Author or Proprietor thereof, first obtained in writing, signed in presence of two credible witnesses at least; or who, knowing the same to be so printed, re-printed, or imported, without such consent first had and obtained, shall publish, sell, or expose to sale, or cause to be published, sold, or exposed to sale, any copy or copies of any such book or pamphlet; the person or persons offending herein, shall forfeit to the party injured, double the value of all the copies so printed, re-printed, or imported; or so published, sold, or exposed to sale; to be recovered at the suit of such party, in any Court of Record within this Commonwealth.

Penalty on persons printing, importing, or publishing such books.

Authors to register titles of their books with the Clerk of the Council.

II. *PROVIDED nevertheless*, That no person shall be entitled to the benefit of this Act, until he shall have registered the title of such book or pamphlet with the Clerk of the Council, and procured a certificate of such registry from the said Clerk; which certificate the Clerk is hereby required to give, taking only three shillings for his trouble.

CHAP. IX.

An Act for the appointment of Harbour-Masters, *and declaring their duty.*

[Passed the 25th of November, 1785.]

Preamble.

I. WHEREAS it is represented that the appointment of Harbour-Masters would tend to the preservation of order and regularity in the several ports and harbours within this Commonwealth:

How to be appointed and qualified.

II. *BE it enacted*, That the County and Corporation Courts within this State, shall, and they are hereby authorised and empowered, to appoint so many persons as they may think necessary, to act as Harbour-Masters within their

* *Vide laws U. S. 1st Cong. 2d sess. chap.* 7. *2d Cong. 2d sess. chap.* 55. *Constitution U. S. art.* 1, *sec.* 8.

reſpective juriſdictions. And the perſon or perſons ſo to be appointed, ſhall, previous to the entering on the ſaid office, take the following oath before their County or Corporation Court: "*I do ſwear, that I am a Citizen "of the Commonwealth of* Virginia, *and that I will well and truly perform the "duty of Harbour-Maſter to the beſt of my ſkill and judgment, without favor, affec-"tion, or partiality. So help me* GOD."

III. *AND be it further enacted*, That the Harbour-Maſters to be appointed by virtue of this Act, ſhall have full and ample power to cauſe all ſhips and other veſſels that may come within his diſtrict, to moor in ſuch places as he ſhall judge moſt conducive for the general ſafety, and ſhall moreover direct the Maſters or Commanders of veſſels to rig in their jib-booms, or any other ſpars which may tend to obſtruct the navigation. Any Maſter or Commander refuſing to obſerve and comply with the ſaid directions, ſhall forfeit and pay the ſum of fifteen pounds, to the uſe of the Commonwealth; and ſhall moreover be ſubject for any damages that may accrue in conſequence of ſuch refuſal, to be recovered in any Court of Record within this Commonwealth.

Their powers.

Penalty on maſter of a veſſel refuſing to comply with their directions.

IV. *AND be it further enacted*, That the Harbour-Maſter ſhall cauſe every ſhip or other veſſel that may come within his diſtrict, to be properly moored within twenty-four hours after their ſeveral arrivals. Any Harbour-Maſters failing to give directions for the mooring of any veſſels within the time preſcribed by this Act, ſhall forfeit and pay fifteen pounds, for the uſe of the Commonwealth, to be recovered, by motion before the County or Corporation Court (as the caſe may be) on ten days previous notice, and ſhall moreover be liable to the action of the party injured for any damages ſuſtained in conſequence of ſuch neglect. And the Harbour-Maſters ſhall moreover attend to the unmooring of all ſhips and other veſſels within their reſpective diſtricts; and in caſe any veſſel moored, ſhall, by ſtreſs of weather or other accident, be drove from her mooring, the Harbour-Maſter ſhall attend to the re-mooring the ſame, and be entitled to half fees for ſuch ſervice.

Their duties.

V. *AND be it further enacted*, That the Harbour-Maſters ſhall demand, and be entitled to receive from all Maſters or Commanders of ſquare-rigged veſſels, the ſum of ten ſhillings, and for all ſchooners and ſloops, the ſum of ſix ſhillings, and no more: *Provided nevertheleſs*, That no Maſter or Commander of any river or bay craft, ſhall be ſubject to the payment of any fee by this Act impoſed.

And fees.

VI. THIS Act to commence and be in force from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſix.

Commencement of this act.

CHAP. X.

An Act to prevent Frauds and Perjuries.

[Paſſed the 30th of November, 1785.*]

I. BE *it enacted by the General Aſſembly*, That no action ſhall be brought whereby to charge any Executor or Adminiſtrator upon any ſpecial promiſe to anſwer any debt or damages out of his own eſtate, or whereby to charge the defendant upon any ſpecial promiſe to anſwer for the debt, default, or miſcarriage of another perſon, or to charge any perſon upon any agreement made upon conſideration of marriage, or upon any contract for the ſale of lands, tenements, or hereditaments, or the making any leaſe thereof for a longer term than one year, or upon any agreement which is not to be performed within the ſpace of one year from the making thereof, unleſs the promiſe or agreement upon which ſuch action ſhall be brought, or ſome memorandum or note thereof ſhall be in writing, and ſigned by the party to be charged therewith, or ſome other perſon by him thereunto lawfully authoriſed.

Certain contracts, agreements, & promiſes, not binding, unleſs made in writing.

II. EVERY gift, grant, or conveyance of lands, tenements, hereditaments, goods or chattels, or of any rent, common, or profit out of the ſame, by writing, or otherwiſe, and every bond, ſuit, judgment or execution, had or made, and contrived of malice, fraud, covin, colluſion, or guile, to the intent or purpoſe to delay, hinder, or defraud creditors of their juſt and lawful actions, ſuits, debts, accounts, damages, penalties, or forfeitures, or to defraud or deceive thoſe who ſhall purchaſe the ſame lands, tenements, or hereditaments, or any rent, profit, or commodity out of them, ſhall be from henceforth deemed and taken (only as againſt the perſon or perſons, his, her, or their heirs, ſucceſſors, exe-

Conveyances of lands or goods, and bonds, ſuits, judgments, and executions to defraud creditors, void as to them.

* 1785, *chap.* 66.

cutors, admiſtrators, or aſſigns, and every of them, whoſe debts, ſuits, demands, eſtates, intereſts, by ſuch guileful and covinous devices and practices, as is aforeſaid, ſhall or might be in any wiſe diſturbed, hindered, delayed or defrauded,) to be clearly and utterly void, any pretence, colour, feigned conſideration, expreſſing of uſe, or any other matter or thing to the contrary notwithſtanding.

Conveyances of goods, not on valuable conſideration, to be deemed fraudulent unleſs by will or deed, and proved and recorded.

And moreover, if a conveyance be of goods and chattels, and be not on conſideration deemed valuable in law, it ſhall be taken to be fraudulent within this Act, unleſs the ſame be by will duly proved and recorded, or by deed in writing acknowledged or proved, if the ſame deed include lands alſo, in ſuch manner as conveyances of land are by law directed to be acknowledged or proved, or if it be of goods and chattels only, then acknowledged or proved by two witneſſes in the General Court, or Court of the County, wherein one of the parties lives, within eight months after the execution thereof, or unleſs poſſeſſion ſhall really and *bona fide* remain with the donee; and in like manner

In what caſes of loans of goods, the abſolute right ſhall be deemed to be in the poſſeſſor.

where any loan of goods and chattels ſhall be pretended to have been made to any perſon with whom, or thoſe claiming under him, poſſeſſion ſhall have remained by the ſpace of five years without demand made, and purſued by due proceſs at law on the part of the pretended lender, or where any reſervation or limitation ſhall be pretended to have been made of a uſe or property, by way of condition, reverſion, remainder, or otherwiſe, in goods and chattels, the poſſeſſion whereof ſhall have remained in another as aforeſaid, the ſame ſhall be taken as to the creditors and purchaſers of the perſons aforeſaid, ſo remaining in poſſeſſion, to be fraudulent within this Act, and that the abſolute property is with the poſſeſſion, unleſs ſuch loan, reſervation, or limitation of uſe or property, were declared by will or by deed, in writing proved, and recorded as aforeſaid.*

Lands or goods bona fide ſold and conveyed, excepted out of this act.

III. THIS Act ſhall not extend to any eſtate or intereſt in any lands, goods, or chattels, or any rents, common, or profit out of the ſame, which ſhall be upon good conſideration, and *bona fide*, lawfully conveyed or aſſured to any perſon or perſons, bodies politic or corporate.

Commencement of this act.

IV. THIS Act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven.

CHAP. XI.

An Act to prevent the Circulation of private Bank Notes.

[Paſſed the 2d of December, 1785.†]

Penalty on perſons circulating bills or notes payable to the bearer.

I. BE *it enacted by the General Aſſembly*, That it ſhall not be lawful for any perſon to offer in payment, a private bank bill or note for money, payable to bearer; and whoſoever ſhall offend herein, ſhall not only forfeit to the informer ten times the value of the ſum mentioned in ſuch bill or note, but may be apprehended by warrant of a juſtice, and, upon due proof of the fact made to him, or upon his own acknowledgment thereof, be bound to the good behaviour, or if he afterwards offend in the like manner, it ſhall be deemed a breach of the condition of the recognizance.

Commencement of this act.

II. THIS Act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven.

CHAP. XII.

An Act concerning Aliens.

[Paſſed the 3d of December, 1785.‡]

When they muſt leave the ſtate;

I. BE *it enacted by the General Aſſembly*, That in caſe that war ariſe betwixt the United States of *America* and any foreign State, the merchants and people of ſuch State, their families, agents, and ſervants, found in this Commonwealth, at the beginning of the war, ſhall not be attached either in their body or goods becauſe of ſuch war, but ſhall be warned by Proclamation from the Governor, taking thereon the advice of the Council of State, that they ſhall depart the Commonwealth with their families, agents, and ſervants, aforeſaid, and their goods, freely within forty days after the Proclamation made and pub-

* *Vide poſt, pa.* 165. † 1785, *chap.* 70. ‡ 1785, *chap.* 81.

lifted. In the meantime they shall not be impeached, nor let of their passage, or of making their profit of the same merchandizes, if they will sell them. And in case that for default of wind or of ship, or for sickness, or for other evident cause, they cannot depart the Commonwealth within so short a time, then they shall have other forty days, or so much more as the necessity of their affairs may require, and the Governor and Council may think it safe to allow, and in the mean time may sell their merchandize as afore is said.

and how they shall be treated in case of war with the state of which they are citizens

II. *BUT* if before their departure credible intelligence shall be brought to the Governor, that the merchants or people of any of the United States be evil treated in the land making war against us, then they shall be attached, without harm of body or goods, until the truth of the matter be certainly known unto the Governor and Council of State: And if the merchants and people of the United States be well treated there, theirs shall be likewise with us: And if otherwise, theirs shall be treated or demeaned within the Commonwealth, in the manner, form, and condition as the merchants or people of the United States be treated or demeaned in the land making war against us.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

CHAP. XIII.

An Act providing that wrongful Alienations of Lands shall be void so far as they be wrongful.

[Passed the 5th of December, 1785.†]

Alienations and warranties of land shall pass only what the person might lawfully convey;

I. BE *it enacted by the General Assembly*, That all alienations and warranties of lands, tenements, and hereditaments, made by any, purporting to pass or assure a greater right or estate than such person may lawfully pass or assure, shall operate as alienations or warranties of so much of the right and estate in such lands, tenements, or hereditaments, as such person might lawfully convey; but shall not pass or bar the residue of the said right or estate purported to be conveyed or assured.

How far the heirs shall be barred, or bound to recompence the tenant where they have assets.

II. BUT if the deed of the alienor doth mention that he and his heirs be bound to warranty, and if any heritage descend to the demandant of the side of the alienor, then he shall be barred for the value of the heritage that is to him descended. And if in time after any heritage descend to him by the said alienor, then shall the tenant recover against him of the seizin warranted, by judicial writ, that shall issue out of the rolls of the Justices, before whom the plea was pleaded, to re-summon his warranty, as before hath been done in cases where the warrantor cometh into the Court, saying, that nothing descended from him by whose deed he is vouched.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

CHAP. XIV.

An Act directing what Prisoners shall be let to Bail.‡

[Passed the 5th of December, 1785.‖]

What prisoners shall be admitted to bail;

I. FOR ascertaining in what cases persons apprehended on suspicion of felony shall or shall not be admitted to bail: *Be it enacted by the General Assembly*, That those shall be let to bail who are apprehended for any crime not punishable in life or limb: And if the crime be so punishable, but only a light suspicion of guilt fall on the party, he shall in like manner be bailable: But if the crime be punishable in life or limb, or if it be man-slaughter, and there be good cause to believe the party guilty thereof, he shall not be admitted to bail.

and who shall not.

II. NO person shall be bailed after conviction of any felony.

Penalty on Justices for admitting prisoners to bail, or for refusing it improperly.

III. IF any Justice let any go at large on bail who is not bailable, or refuse to admit to bail any who have right to be so admitted, after they shall have offered sufficient bail, or require excessive bail, he shall be amerced at the discretion of a Jury.

Commencement of this act.

IV. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty seven.

† 1785, *ch.* 69. ‡ *Amended Dec. sess.* 1800, *ch.* 60. ‖ 1785, *ch.* 82.

CHAP. XV.

An Act declaring that none ſhall be condemned without Trial, and that Juſtice ſhall not be ſold or deferred.

[Paſſed the 5th of December, 1785.†]

No freeman to be deprived of liberty, rights, or freehold, but by judgment of his peers, or by the laws.

I. BE *it enacted by the General Aſſembly*, That no freeman ſhall be taken or impriſoned, or be diſſeized of his freehold, or liberties or free cuſtoms, or be outlawed or exiled, or any otherwiſe deſtroyed, nor ſhall the Commonwealth paſs upon him, nor condemn him, but by lawful judgment of his Peers, or by the laws of the land.

Juſtice not to be ſold, denied, or deferred.

Juſtice or right ſhall not be ſold, denied, or deferred to any man.

Commencement of this act.

II. THIS Act ſhall commence and be in force from and after the firſt day of January, one thouſand ſeven hundred and eighty ſeven.

CHAP. XVI.

An Act concerning Eſtrays.

[Paſſed the 12th of December, 1785.‡]

Method of taking up and appraiſing eſtrays,

I. BE *it enacted by the General Aſſembly*, That it ſhall be lawful for any perſon, by himſelf or his agent, to take up any Eſtray on his own land, and having taken it, he, or his agent, ſhall forthwith give information thereof to ſome Juſtice of the Peace for the ſaid County, who ſhall thereupon iſſue his warrant to three diſintereſted freeholders of the neighbourhood, commanding them, having been firſt duly ſworn, to view and appraiſe ſuch Eſtray, and certify the valuation under their hands, together with a particular deſcription of the kind, marks, brand, ſtature, colour, and age; which certificate ſhall by the Juſtice be tranſmitted to the Clerk of the County Court within twenty days, and by ſuch Clerk entered in a book to be kept for that purpoſe, for which he may demand and take ten pounds of tobacco, to be paid down by the taker up.

of advertiſing them.

II. THE Clerk ſhall moreover cauſe a copy of every ſuch certificate to be publicly affixed at the door of his Court-houſe, on two ſeveral Court-days next after he receive the ſame, for which, and a certificate thereof, he ſhall receive the like fee as for entering the ſame in the book.

When the property ſhall be veſted in the perſon taking them up.

III. IF the valuation ſhall be under twenty ſhillings, and no owner ſhall appear until notice ſhall have been twice publiſhed, as aforeſaid, the property ſhall then be veſted in the owner of the land, on which ſuch Eſtray was taken; and if the valuation ſhall exceed twenty ſhillings, ſuch owner ſhall, within three months after the appraiſement, ſend to the Public Printer a copy of the certificate, to be advertiſed three times in the Virginia Gazette, with notice of the place where ſuch Eſtray is, for which the Printer may demand four ſhillings for each Eſtray; and if no owner appears to claim ſuch Eſtray within a year and a day after the publication, the property ſhall from thenceforth be veſted in the owner of the lands whereon it was taken. But the former owner, in either caſe, may at any time, within five years afterwards, upon proving his property, demand and recover the valuation money, deducting therefrom the Clerk's and Printer's fees, and five ſhillings for every horſe or head of neat cattle, and one ſhilling for every other beaſt.

Reſerving the right of the former proprietor to the value.

Boats or other veſſels adrift, taken up, to be appraiſed and advertiſed in the ſame manner.

IV. IF any perſon ſhall take up a boat or other veſſel adrift, he ſhall in like manner make application to a Juſtice of one of the adjacent Counties, for his warrant, to have the ſame valued and deſcribed by her kind, burthen and built, and ſhall proceed in all other reſpects, and have the ſame benefit as before directed in the caſe of Eſtrays. *Provided always*, That if after notice publiſhed as aforeſaid, any Eſtray ſhall happen to die, or by any caſualty get out of the poſſeſſion of the perſon who took the ſame up, without his or her default, ſuch taker up ſhall not be anſwerable for the ſame, or for the valuation thereof; nor ſhall any taker up be anſwerable for any boat or other veſſel loſt as aforeſaid.

Proviſo in caſe of the death or loſs of the eſtray.

Commencement of this act.

V. THIS act ſhall commence and be in force from and after the firſt day of January, one thouſand ſeven hundred and eighty-ſeven.

† 1785, *ch.* 83. ‡ 1785, *ch.* 72.

CHAP. XVII.

An Act concerning Election of Members of General Assembly.

[Passed the 20th of December, 1785.†]

I. BE *it enacted by the General Assembly*, That the Delegates for the several Counties, and the City of *Williamsburg* and Borough of *Norfolk*, and the six Senators for one of the four classes of Districts, in the room of those who will annually be displaced, shall be chosen, in the manner hereafter directed, in the month of April in every year, on the Court days of each respective County or Corporation,‖ and shall meet together, and with the remaining Senators, on the third Monday of October then next following, in General Assembly, at the place the last preceding General Assembly shall have sat in, or adjourned to, unless such place be in possession of a public enemy, or infected with the plague or small-pox, in which case they shall meet at such other place as the Governor, with the advice of the Council, shall appoint, and notify by Proclamation. When to be elected. When and where to meet in General Assembly. See acts of 1793, chap. 20. Also, acts of 1796, ch. 9.

II. EVERY male Citizen (other than free Negroes or Mulattoes) of this Commonwealth, aged twenty-one years, or such as have refused to give assurance of fidelity to the Commonwealth, being possessed, or whose tenant for years, at will, or at sufferance, is possessed of twenty-five acres of land, with a house, the superficial content of the foundation whereof is twelve feet square, or equal to that quantity, and a plantation thereon, or fifty acres of unimproved land, or a lot or part of a lot of land in a City or Town established by Act of General Assembly, with a house thereon, of the like superficial content or quantity, having in such land an estate of freehold at the least, and, unless the title shall have come to him by descent, devise, marriage or marriage-settlement, having been so possessed six months, and no other person shall be qualified to vote for Delegates to serve in General Assembly, for the County, City, or Borough respectively, in which the land lieth. If the fifty acres of land being one entire parcel, lie in several Counties, the holder shall vote in that County wherein the greater part of the land lieth only; and if the twenty-five acres of land, being one entire parcel, be in several Counties, the holder shall vote in that County wherein the house standeth only. In right of land holden by parceners, joint-tenants, or tenants in common, but one vote shall be given by all the holders capable of voting, who shall be present, and agree to vote for the same Candidate or Candidates, unless the quantity of land, in case partition had been made thereof, be sufficient to entitle every holder present to vote separately, or unless some one or more of the holders may lawfully vote in right of another estate or estates in the same County, in which case the others may vote, if holding solely, they might have voted. Who qualified to vote as electors.

III. EVERY person having such a freehold in the City of *Williamsburg* or Borough of *Norfolk*, as will qualify him to vote for Delegates to represent the County, and also every freeman, except as before excepted, aged twenty-one years, being a Citizen of the Commonwealth, and not having refused to give assurance of fidelity, who shall be a housekeeper, and shall have resided for six months in the said City or Borough, and shall be possessed of a visible estate of the value of fifty pounds at least, or shall actually have served as an apprentice to some trade within the said City or Borough for the term of five years, and shall have obtained a certificate of such service from the Court of Hustings, under the common seal of the City or Borough, and no other, shall be qualified to vote for a Delegate to represent the said City or Borough, respectively, in General Assembly. Who may vote as electors in Williamsburg & Norfolk.

IV. EVERY person qualified as aforesaid to vote for Delegates, shall be capable of being elected a Delegate for the County, City, or Borough, or Senator for the District in which he resides. Who may be elected.

V. NO person, who shall have served as a Member of the Legislature for seven years in the whole, shall be afterwards compellable to serve therein. No person compellible to serve more than seven years.

VI. ANY Elector qualified according to this Act, failing to attend any annual election of Delegates or of a Senator, and, if a poll be taken, to give, or offer to give his vote, shall pay one fourth of his portion of all such levies and taxes as shall be assessed and levied in his County the ensuing year: And Penalty on electors failing to attend and vote.

† 1785, *ch.* 57. *See ch.* 39, *post.*

‖ *By acts of* 1798, *ch.* 14, *elections to be held the* 4*th Wednesday in April.*

for discovering such defaulters, the Sheriff or other officer taking the poll, shall within ten days after the said election, deliver to the Clerk of the County, or Corporation Court, as the case may be, a copy of the poll by him taken, to be kept in his office, who shall suffer any candidate or elector to take a copy thereof; and the said Clerk is hereby directed to cause a copy of the same to be delivered to the next Grand Jury, to be sworn for the County or Corporation, who shall be charged by the presiding Magistrate, to make presentment of all such persons qualified to vote, residing in the said County or Corporation, who shall have failed to have given their votes at the said election agreeable to law. And for the better information of the said Jury, the Sheriff of the County is hereby commanded, under the penalty of fifty pounds, to be recovered and appropriated as the penalties for other neglects of his duty, to lay before them a list of all the landholders resident therein.

See chap. 39, sec. 8.

VII. EVERY Elector, going to, abiding at, and returning from an election, shall be privileged from arrests one day for every twenty miles he shall necessarily travel, exclusive of the day of election; and any process against such Elector, executed during such privilege, shall be void.

Privilege of electors.

VIII. UPON the election of a Senator, and also of a Delegate, or Delegates, when the election of such Delegate, or Delegates, cannot be determined by view, the Sheriff, or in his absence, the under Sheriff of the County,§ or the Mayor of the City or Borough, shall in presence of the, candidates, or their agents, cause the poll to be taken in the Court-house; or if that be in a Town infected with any contagious disease, or be in danger of an attack from a public enemy, at some other place according to these directions: He shall appoint such, and so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation that they will take the poll faithfully and impartially: He shall deliver a poll-book to each writer, who by ruling lines thereon, having made as many columns as there shall be candidates, shall enter the name of each candidate in a distinct column at the head thereof, and under his name in the same column, the name of every elector, who shall vote for that candidate; and after the names of all the electors who will give their votes (Proclamation having been made three times at the door of the Court-house, or other place of holding such election, by the officer requiring those who had not been polled, to come in and give their votes) shall have been thus entered, he shall conclude the poll, and declare the candidates for whom the greatest number of votes shall appear to have been given to be elected; or if the greatest number of votes for several candidates shall be equal with one another, he may declare which of the candidates he will elect. If the number of votes for several persons to be a Senator be equal, and the votes of the returning officers be equal also, it shall be decided by a lot taken by the said returning officers at their meeting, which shall be within twenty days after the last day of election, at such place as shall be appointed by the returning officer of the first County in which such election shall be, who is hereby commanded forthwith to give notice to the returning officers. No elector shall be admitted to poll a second time, at one and the same election, although at the first time he shall have given but a single vote. If the electors who appear, be so numerous that they cannot all be polled before sun-setting; or if by rain or rise of water-courses, many of the electors may have been hindered from attending, the Sheriff, or under Sheriff, may, by request of any one, or more of the candidates, or their agents, adjourn the proceeding on the poll until the next day, and so from day to day for four days, (Sundays excluded) if the same cause continue, giving public notice thereof by Proclamation at the door of the Court-house, or other place of holding such elections, and shall on the last day of the election conclude the poll according to the directions aforesaid.

Method of taking the poll.
See acts of 1800, chap. 51.

Officer may declare which of the candidates he will elect, when the votes are equal.

See chap. 39, sec. 6.

When and how the poll may be adjourned.

IX. ON complaint to either House of Assembly of an undue election, or return of any Member to their House, such House shall forthwith appoint some day for trying the same, as shortly as shall be consistent with fair enquiry, but not within less than fourteen days after such complaint lodged, whereof notice shall be given by the Speaker to the party against whom the complaint is, if he be absent; which day of trial may be lengthened from time to time, on good cause shewn to the House, and notice to the absent party. On the day appointed for the trial, the Committee of Privileges and Elections shall proceed on the said disputed election, and report to the House of which they are Members, their opinion thereon, before they proceed to any other business, and the

Mode of proceeding in contested elections.
See chap. 39, sec. 1, 2, 3, 4.

§ *By acts of* 1799, *ch.* 17, *in case of death of sheriff, or his being a candidate, a magistrate to act as sheriff at elections.*

ſaid Houſe ſhall, on receipt of the ſaid report, immediately proceed to determine thereon, and either confirm or diſagree to ſuch report, as to them ſhall ſeem juſt. If any perſon ſworn before the ſaid Committee, ſhall give, or withold, any evidence under ſuch circumſtances as would have conſtituted the ſame to be perjury, if done in preſence of a Court of Record, the ſame ſhall be deemed perjury. If upon any ſuch trial it ſhall appear that equal numbers of qualified Electors ſhall have voted for the petitioner and the ſitting Member, and the officer who conducted the election ſhall ſwear or ſolemnly affirm that if ſuch equality had appeared at the election, he would have declared the petitioner elected, ſuch petitioner ſhall be deemed duly elected; and his name, inſtead of the name of the ſitting Member, which ſhall be eraſed, ſhall be inſerted in the certificate or return.

Electors if required ſhall be ſworn.

X. NO Elector ſhall be polled before he ſhall have declared, if required to do ſo by any candidate, or his agent, in what right he offers to vote, and ſhall have taken an oath, which the officer conducting the election ſhall adminiſter, or make a ſolemn affirmation in this form: "*I do ſwear (or do ſolemnly affirm) that I do in my conſcience believe myſelf to be duly qualified to vote for Delegates to ſerve in General Aſſembly for the County of , according to the act of General Aſſembly, intituled,* 'An Act ;" of which oath or affirmation, a note ſhall be made in the poll-book, oppoſite, and referring to the name of the perſon ſwearing or affirming. The making ſuch oath or affirmation falſely, ſhall be perjury.

Names of electors refuſing to ſwear, to be entered in ſeparate liſts.

XI. THE names of Electors offering to be polled, but refuſing to make ſuch oath or affirmation, ſhall be entered on the poll-books in ſeparate liſts, with the names of the candidates for whom they voted, and ſhall be added to the poll, if, upon a ſcrutiny the votes be juſtified.

Manner of certifying election of Delegates.

XII. THE Sheriff or under Sheriff ſhall certify the election of Delegates in this form, or to this effect: "*Be it known to all to whom theſe preſents ſhall come, that I , Sheriff (or Deputy of , Sheriff) of the County of in my full County, held at the Court-houſe thereof (or at) on the day of , in the year of our Lord, , by the Electors of my ſaid County, qualified according to law, cauſed to be choſen two Delegates for my ſaid County, namely, and to repreſent the ſame in General Aſſembly. Given under my hand and ſeal, the day and year aforeſaid.*"

XIII. The Mayor of a City or Borough entitled to particular repreſentation, ſhall certify the election of a Delegate in this form, or to this effect: "*Be it known to all to whom theſe preſents ſhall come, that I , Mayor of the City (or Borough) of , at the Court-houſe of (or at) in the ſaid City (or Borough) on the day of , in the year of our Lord, , by the electors of the ſaid City (or Borough) qualified according to law, cauſed to be choſen a Delegate for the ſaid City (or Borough) namely, to repreſent the ſame in General Aſſembly. Given under my hand and ſeal, the day and year aforeſaid.*"

Of Senators.

XIV. THE Sheriffs, or under Sheriffs, of the ſeveral Counties of a Diſtrict, ſhall certify the election of a Senator in this form, or to this effect: "*Be it known to all to whom theſe preſents ſhall come, that we , Sheriff, (or , Deputy of , Sheriff) of the County of , , Sheriff (or , Deputy of , Sheriff) of the County of , and , Sheriff (or , Deputy of , Sheriff) of the County of , in our full Counties held at the Court-houſes thereof (or at) reſpectively, on the day of , in the year of our Lord, , by the Electors of our ſaid reſpective Counties, qualified according to law, cauſed to be choſen a Senator for the Diſtrict, compoſed of the ſaid Counties, namely, , to repreſent the ſame in General Aſſembly. Given under our hands and ſeals, the day and year aforeſaid.*"

Certificates of elections to whom to be delivered.

XV. THE officers directed to make ſuch certificates of elections as aforeſaid, ſhall cauſe them to be delivered, thoſe of Delegates, to the Clerk of the Houſe of Delegates, and thoſe of Senators, to the Clerk of the Senate, one day at leaſt before the ſucceeding Seſſion of General Aſſembly.

Method of iſſuing, executing, and returning writs, for electing members to ſupply vacancies.

XVI. FOR election of a Delegate or Senator, when a vacancy ſhall happen, a writ or writs ſhall be iſſued by the Speaker of that Houſe whereof he was a Member; but if the vacancy be occaſioned by acceptance of an office, the writ or writs ſhall not be iſſued, without the ſpecial order of the Houſe;

and the officer to whom such writ shall be directed, so soon after the receipt thereof as he may be able, shall give the Electors notice thereof as well as of the time and place of election, by advertisement to be affixed at four of the most convenient places in the County, and shall cause the election to be made in the manner herein before prescribed, and shall have the same power of adjourning the proceeding upon the poll, as in case of a general election. The return of such writ for electing a Delegate or Delegates, shall be in this form, or to this effect: Upon the writ shall be endorsed these, or the like words: "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper annexed to the writ shall be written, if the writ be for the election of a Delegate for a County, these or the like words: "*By virtue of this writ to me directed, in my full County held at the Court-house thereof (or at) on the day of , in the year of our Lord, , by the Electors of my said County, qualified according to law, I caused to be chosen a Delegate (or two Delegates) for my said County, namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and if the writ be for the election of a Delegate for a City or Borough, these, or the like words: "*By virtue of this writ to me directed, at the Court-house of the City of (or Borough of , or at , in the Borough of) on the day of , in the year of our Lord, , by the Electors of the said City (or Borough) qualified according to law, I caused to be chosen a Delegate for the said City (or Borough) namely, , to represent the same in General Assembly. Given under my hand and seal, the day and year aforesaid;*" and the return of the writs for electing a Senator shall be in this form, or to this effect; Upon each writ shall be endorsed these, or the like words: "*The execution of this writ appears in a schedule hereunto annexed;*" and on another paper connecting the several writs together, shall be written these, or the like words: "*By virtue of these writs to us directed, in our full counties, held at the Courthouses thereof respectively (or at) on the day of , in the year of our Lord, , by the Electors of our said respective Counties, qualified according to law, we caused to be chosen a Senator for the District composed of our said Counties, namely, , to represent the same in General Assembly. Given under our hands and seals, the day and year aforesaid.*" And the officers conducting the elections, shall make their said returns to the General Assembly, if it be sitting, immediately, or if it be not sitting, one day at least before the time to which the writ shall be returnable.

Penalties on the officers for refusing to take the poll, or other neglect of duty.

XVII. A SHERIFF, under Sheriff, or Mayor, refusing to take the poll when he shall be required by a candidate, or Elector, or taking it in other manner than is herein before prescribed, or making a false certificate or return of the election of a Member or Members to serve in the General Assembly, or neglecting to cause the certificate or return of such election to be made to such Clerk, and at or before such time as is herein before directed, shall forfeit and pay one hundred pounds; and neglecting to deliver the poll-books to the Clerk of the Court, to whom, and before the expiration of the time within which they are herein before directed to be delivered, or refusing to suffer any Candidate or Elector, at his own expense, to take a copy of the poll-books, shall forfeit and pay fifty pounds; which penalties may be recovered with costs in actions of debt, by any person who will sue for the same, one half to his own use, and the other half to the use of the Commonwealth.

Members bribing electors to be expelled and disabled to be re-elected for three years.

XVIII. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected, for such, or any other County, City, or Borough, shall be expelled and disabled to be re-elected during the term of three years.†

Privilege of the members.

XIX. THE privilege of Members of the General Assembly shall continue during every session, and one day before and after for every twenty miles they must necessarily travel to, and from home, and, in the meantime, process in which they are parties shall be suspended, without abatement or discontinuance. If any person taken in execution, be delivered by privilege of either House of General Assembly, so soon as such privilege ceaseth, he shall return himself a prisoner in execution, or be liable to an escape.

† *See ch. 69, sec. 2; also, acts of 1798, ch. 10.*

When the Assembly may be prorogued, or either House adjourned by the Governor and Council.

XX. IF a sufficient number of the Members of General Assembly, or of either House thereof, to adjourn from day to day, shall not meet at any time when they ought, the Governor by Proclamation, with advice of the Council, may prorogue the General Assembly, or adjourn the deficient House, from day to day, until a sufficient number shall convene; and their acts and proceedings afterwards shall be as valid as if there had been no such interruption. But a Delegate or Senator shall lose all the wages he would otherwise have been entitled to, if he shall depart from the General Assembly before it be adjourned, without licence from the Speaker and other Members of the House whereof he is a Member, first entered on the Journal; yet any Member of either House taken so sick during his attendance in General Assembly, or in his journey thither, as that he shall be unable to come to or sit in the House, shall receive wages for every day of the Session he shall be so disabled, in the same manner as if he had sat in the House.* If on the day appointed for the meeting of any General Assembly, or at any time during the Session, a sufficient number of the Members thereof, to proceed to business, do not attend for that purpose, every absent Delegate or Senator, shall, besides losing his wages during absence, forfeit and pay to the use of this Commonwealth, ten pounds; such forfeiture to be recovered by prosecution to be instituted in the General Court by order of such House, and on the trial of such prosecution, no excuse for non-attendance, other than those before-mentioned, shall be admitted by the Jury; and if it be alledged that the defendant did attend such House, on any of the days during which they could not do business for want of Members, the proof of such attendance shall rest on him.

Penalties on Members departing without leave.

Members attending, but unable through sickness to sit in the House, entitled to their wages.

Penalty on absent Members when there is not a House for want of Members.

General Assembly may adjourn to any other place than that where they are sitting.

XXI. THE General Assembly may during a Session, or at the end thereof, adjourn to any other place than that where they shall then be sitting.

When Acts of Assembly are to commence in force.

XXII. EVERY Act of the General Assembly hereafter to be made, shall commence and be in force from the passing thereof, unless in the Act itself another day for the commencement thereof be particularly mentioned, and in the former case the day of passing thereof shall be noted next after the title.†

Commencement of this act.

XXIII. THIS Act shall commence and be in force, from and after the first day of January, one thousand seven hundred and eighty-seven.

CHAP. XVIII.

An Act to approve, confirm, and ratify the Compact made by certain Commissioners appointed by the General Assembly of the State of Maryland, *and Commissioners appointed by this Commonwealth.*

[Passed the 3d of January, 1786.‡]

Preamble.

I. WHEREAS, at a meeting of the Commissioners appointed by the General Assembly of the State of *Maryland* and *Virginia*, to wit, *Daniel of St. Thomas Jenifer, Thomas Stone, and Samuel Chase*, Esquires, on the part of the State of *Maryland*, and *George Mason* and *Alexander Henderson*, Esquires, on the part of the State of *Virginia*, at *Mount-Vernon*, in *Virginia*, on the 28th day of *March*, in the year one thousand seven hundred and eighty-five, the following compact was mutually agreed to by the said Commissioners.

Articles of the compact.

First,—THE Commonwealth of *Virginia* disclaims all right to impose any toll, duty, or charge, prohibition or restraint, on any vessel whatever sailing through the Capes of *Chesapeake* Bay to the State of *Maryland*, or from the said State through the said Capes outward bound; and agrees that the waters of *Chesapeake* Bay, and the river *Pocomoke*, within the limits of *Virginia*, be forever considered as a common high-way, free for the use and navigation of any vessel belonging to the said State of *Maryland*, or any of its citizens, or carrying on any commerce to or from the said State, or with any of its citizens; and that every such vessel inward or outward bound, may freely enter any of the rivers within the Commonwealth of *Virginia*, as a harbour, or for safety against an enemy, without the payment of port duties, or any other charge; and also, that the before-mentioned parts of *Chesapeake* Bay, and *Pocomoke* River, be free for the navigation of vessels from one part of the State of *Maryland* to another.

* *Allowance to members ascertained in* 1795, *ch.* 26—*Increased in* 1799, *ch.* 34.

† *This clause repealed by 2d sec. of act of* 1789, *(pa.* 6, *ch* 9,) *concerning a new edition of the laws, &c. see note at beginning.*

‡ 1785, *ch.* 17.

Second,—THE State of *Maryland* agrees that any veſſel belonging to the Commonwealth of *Virginia*, or any of its citizens, or carrying on commerce to or from the ſaid Commonwealth, or with any of its citizens, may freely enter any of the rivers of the ſaid State of *Maryland* as a harbour, or for ſafety againſt an enemy, without the payment of any port duty, or other charge.

Third,—VESSELS of war, the property of either State, ſhall not be ſubject to the payment of any port duty, or other charge.

Fourth,—VESSELS not exceeding forty feet keel, nor fifty tons burthen, the property of any citizen of *Virginia* or *Maryland*, or of citizens of both States, trading from one State to the other only, and having on board only the produce of the ſaid States, may enter and trade in any part of either State, with a permit from the Naval-Officer of the diſtrict from which ſuch veſſel departs with her cargo, and ſhall be ſubject to no port charges.

Fifth,—ALL merchant veſſels (except ſuch as are deſcribed in the fourth article) navigating the River *Potowmac*, ſhall enter and clear at ſome Naval-Office on the ſaid river, in one or both States, according to the laws of the State in which the entry ſhall be made. And where any veſſel ſhall make an entry in both States, ſuch veſſel ſhall be ſubject to tonnage in each State only in proportion to the commodities carried to, or taken from, ſuch State.

Sixth,—THE River *Potowmac* ſhall be conſidered as a common high-way, for the purpoſe of navigation and commerce to the citizens of *Virginia* and *Maryland*, and of the United States, and to all other perſons in amity with the ſaid States, trading to or from *Virginia* or *Maryland*.

Seventh,—THE citizens of each State reſpectively ſhall have full property in the ſhores of *Potowmac* River adjoining their lands, with all emoluments and advantages thereunto belonging, and the privilege of making and carrying out wharves and other improvements, ſo as not to obſtruct or injure the navigation of the river; but the right of fiſhing in the river ſhall be common to, and equally enjoyed by the citizens of both States: *Provided*, That ſuch common right be not exerciſed by the citizens of the one State, to the hindrance or diſturbance of the fiſheries on the ſhores of the other State; and that the citizens of neither State ſhall have a right to fiſh with nets or ſeines on the ſhores of the other.

Eighth,—ALL laws and regulations which may be neceſſary for the preſervation of fiſh, or for the performance of quarantine, in the river *Potowmac*, or for preſerving and keeping open the channel and navigation thereof, or of the River *Pocomoke*, within the limits of *Virginia*, by preventing the throwing out ballaſt, or giving any other obſtruction thereto, ſhall be made with the mutual conſent and approbation of both States.

Ninth,—LIGHT-HOUSES, beacons, buoys, or other neceſſary ſignals, ſhall be erected, fixed, and maintained upon *Cheſapeake* Bay, between the ſea and the mouths of the Rivers *Potowmac* and *Pocomoke*, and upon the River *Potowmac*, at the expenſe of both States; if upon *Potowmac* River, at the joint and equal charge of both States; and if upon the before-mentioned part of *Cheſapeake* Bay, *Virginia* ſhall defray five parts, and *Maryland* three parts of ſuch expenſe; and if this proportion ſhall in future times be found unequal, the ſame ſhall be corrected. And for aſcertaining the proper places, mode and plans for erecting and fixing light-houſes, buoys, beacons, and other ſignals, as aforeſaid, both States ſhall, upon the application of either to the other, appoint an equal number of Commiſſioners, not leſs than three, nor more than five, from each State, to meet at ſuch times and places as the ſaid Commiſſioners, or a major part of them, ſhall judge fit, to fix upon the proper places, mode, and plans for erecting and fixing ſuch light-houſes, beacons, or other ſignals, and report the ſame, with an eſtimate of the expenſe, to the Legiſlatures of both States, for their approbation.

Tenth,—ALL piracies, crimes, or offences committed on that part of *Cheſapeake* Bay which lies within the limits of *Virginia*, or that part of the ſaid Bay where the line of diviſion from the South point of *Potowmac* River (now called *Smith's* Point) to *Watkins's* Point, near the mouth of *Pocomoke* River, may be doubtful, and on that part of *Pocomoke* River within the limits of *Virginia*, or where the line of diviſion between the two States upon the ſaid river, is doubtful, by any perſons not citizens of the Commonwealth of *Virginia*, againſt the citizens of *Maryland*, ſhall be tried in the Court of the State of *Maryland*, which hath legal cognizance of ſuch offence: And all piracies, crimes, and offences committed on the before-mentioned parts of *Cheſapeake* Bay, and *Pocomoke* River, by any perſons not citizens of *Maryland*, againſt

any citizen of *Virginia*, shall be tried in the Court of the Commonwealth of *Virginia*, which hath legal cognizance of such offence: All piracies, crimes, and offences committed on the said parts of *Chesapeake* Bay and *Pocomoke* River, by persons not citizens of either State, against persons not citizens of either State, shall be tried in the Court of the Commonwealth of *Virginia*, having legal cognizance of such offences: And all piracies, crimes, and offences committed on the said parts of *Chesapeake* Bay and *Pocomoke* River, by any citizen of the Commonwealth of *Virginia*, or of the State of *Maryland*, either against the other, shall be tried in the Court of that State of which the offender is a citizen. The jurisdiction of each State over the River *Potowmac*, shall be exercised in the same manner as is prescribed for the before-mentioned parts of *Chesapeake* Bay and *Pocomoke* River, in every respect, except in the case of piracies, crimes, and offences committed by persons not citizens of either State, upon persons not citizens of either State, in which case the offenders shall be tried by the Court of the State to which they shall first be brought. And if the inhabitants of either State shall commit any violence, injury, or trespass, to or upon the property or lands of the other, adjacent to the said Bay or Rivers, or to any person upon such lands, upon proof of due notice to the offender to appear and answer, any Court of Record, or Civil Magistrate of the State where the offence shall have been committed, having jurisdiction thereof, may enter the appearance of such person, and proceed to trial and judgment, in the same manner as if legal process had been served on such offender; and such judgment shall be valid and effectual against the person and property of such offender, both in the State where the offence shall have been committed, and also in the State where the said offender may reside: and execution may be issued by the Court, or Magistrate, giving such judgment, in the same manner as upon judgments given in other cases; or upon a transcript of such judgment, properly authenticated, being produced to any Court, or Magistrate, of the State where such offender may reside, having jurisdiction within the State, or County where the offender may reside, in cases of a similar nature, such Court, or Magistrate, shall order execution to issue upon such authenticated judgment in the same manner, and to the same extent, as if the judgment had been given by the Court, or Magistrate, to which such transcript shall be exhibited.

Eleventh,—ANY vessel entering into any port on the River *Potowmac*, may be libelled, or attached for debt, by process from the State in which such vessel entered. And if the commercial regulations of either State shall be violated by any person carrying on commerce in *Potowmac* or *Pocomoke* Rivers, the vessel owned or commanded by the person so offending, and the property on board, may be seized, by process from the State whose laws are offended, in order for trial. And if any person shall fly from justice, in a civil or criminal case, or shall attempt to defraud creditors by removing his property, such person, or any property so removed, may be taken on any part of *Chesapeake* Bay, or the rivers aforesaid, by process of the State from which such person shall fly, or property be removed; and process from the State of *Virginia* may be served on any part of the said rivers, upon any person, or property of any person not a citizen of *Maryland*, indebted to any citizen of *Virginia*, or charged with injury, having been by him committed; and process from the State of *Maryland* may be served on any part of the said rivers, upon any person, or property of any person, not a citizen of *Virginia*, indebted to a citizen of *Maryland*, or charged with injury by him committed. And in all cases of trial in pursuance of the jurisdiction settled by this compact, citizens of either State shall attend as witnesses in the other, upon a summons from any Court, or Magistrate, having jurisdiction, being served by a proper officer of the County where such citizen shall reside.

Twelfth,—THE citizens of either State having lands in the other, shall have full liberty to transport to their own State, the produce of such lands, or to remove their effects, free from any duty, tax, or charge whatsoever, for the liberty to remove such produce or effects.†

Thirteenth,—THESE Articles shall be laid before the Legislatures of *Virginia* and *Maryland*, and their approbation being obtained, shall be con-

† *See Acts of 1793, ch. 11, allowing persons carrying slaves from this into another State, to bring them back.*

firmed and ratified by a law of each State, never to be repealed, or altered, by either, without the conſent of the other.

Ratification thereof.

II. AND WHEREAS this General Aſſembly are of opinion, that the ſaid compact is made on juſt and mutual principles, for the true intereſt of both governments, and the ſame having been confirmed by the General Aſſembly of the State of *Maryland*: *Be it therefore enacted*, That the ſaid compact is hereby approved, confirmed, and ratified by the General Aſſembly of *Virginia*, and that every article, clauſe, matter and thing therein contained, ſhall be obligatory on this State and the citizens thereof, and ſhall be forever faithfully and inviolably obſerved and kept by this government, and all its citizens, according to the true intent and meaning of the ſaid Compact; and the faith and honor of this State is hereby ſolemnly pledged and engaged to the General Aſſembly of the State of *Maryland*, and the government and citizens thereof, that this law ſhall never be repealed, or altered, by the Legiſlature of this Commonwealth, without the conſent of the State of *Maryland*.

CHAP. XIX.

An Act concerning Public Roads.†

[Paſſed the 5th of January, 1786.‡]

County Courts authorized to open new roads, or alter former ones.

I. BE *it enacted by the General Aſſembly*, That where any perſon or perſons ſhall make application to any County Court, to have a new road opened, or a former one altered, within their County, for the convenience of travelling to their County Court-houſe, to any public warehouſe, landing, ferry, mill, lead or iron works, or to the Seat of Government, they ſhall appoint three or more fit and able perſons, to be ſworn before a Juſtice of the Peace, to view the ground along which ſuch road is propoſed to be conducted, and to report to them truly and impartially the conveniences and inconveniences which will reſult, as well to individuals as to the public, if ſuch way ſhall be opened; and where the application is to alter a former road, they ſhall alſo view the former road, and report in like manner, the comparative conveniences and inconveniences thereof.

II. UPON the return of the ſaid Viewers, if the Court ſhall be of opinion that the road applied for will be convenient, they ſhall order ſummonſes to be iſſued to the proprietors and tenants of the lands, through which the ſame is propoſed to be conducted, if they be found within the County, and if not, then to their agents therein, if any they have, to ſhew cauſe why ſuch road ſhould not be opened; upon the return of which ſummons, if any proprietor or tenant ſo deſire, the ſaid Court ſhall order their Clerk to iſſue a writ in the nature of a writ *ad quod dumnum*, to be directed to the Sheriff, commanding him to ſummon and empannel twelve able and diſcreet freeholders of the vicinage, no ways related to either party, to meet at ſome certain place on the ground through which the ſaid road is propoſed to be conducted, and on a certain day to be named by the Court, and inſerted in the ſaid writ, of which notice ſhall be given by the Sheriff to the ſaid proprietors or tenants, or their agents, as before directed, if they were not preſent in Court at the time of the order made; which freeholders, taking nothing (on pain of being diſcharged from the Inqueſt, and immediately impriſoned by the Sheriff) either of meat or drink, from any perſon whatever, from the time they ſhall come to the ſaid place until their Inqueſt ſealed, ſhall be charged by the ſaid Sheriff impartially, and to the beſt of their ſkill and judgment, to view the lands through which the ſaid road is propoſed to be conducted, and ſay to what damage it will be of to the ſeveral and reſpective proprietors and tenants, who deſired ſuch writ, taking into eſtimation as well the uſe of the lands to be laid open for ſuch road, as the additional fencing, which will thereby be rendered neceſſary; and if the ſaid Inqueſt cannot be compleated in one day, the Sheriff ſhall adjourn the ſaid Jurors from day to day, until the ſame be compleated: Which Inqueſt, ſealed by the ſaid Jurors, together with the writ, ſhall be returned to the Court, who thereupon, as well as upon other evidence, ſhall proceed to conſider whether, all circumſtances weighed, it be better that the ſaid road ſhall be opened, and if they be of opinion that the ſame ſhall be opened, they ſhall levy on their County, at their next levy to be laid, the damages ſo found, and the coſts of the inqueſt, and direct them to be paid to thoſe reſpectively entitled thereto. But if they ſhall be of opinion that the ſaid road ought not to be opened, the coſts

† *Amended in* 1796, *ch.* 42. ‡ 1785, *ch.* 77.

of such inquest shall be adjudged against the party applying for the said road. But it shall not be lawful for any Court to order a road to be opened through any lot of land in any town, without the consent of the owner and tenant thereof.

To divide the public roads into precincts, & appoint a Surveyor to each.

III. THE several Courts shall also divide all the public roads into precincts, and as often as it shall be necessary, appoint a Surveyor over every precinct, whose duty it shall be to superintend the road in his precinct, and see that the same be cleared and kept in good repair; which Surveyor shall continue in office until another shall be appointed by the said Court in his stead.

Who are to work on the roads.

IV. ALL male labouring persons, of the age of sixteen years or more, except such as are masters of two or more male labouring slaves, of the age of sixteen years or more, shall be appointed by the Court to work on some public road: For every person so appointed, who, when required by the Surveyor placed over him, shall, without legal cause or disability, fail to attend, with proper tools for clearing the road, or shall refuse to work when there, or to find some other person equally able, to work in his room, the sum of seven shillings and six pence, for every day's offence, shall be paid, by himself, if he be a freeman of full age, if an infant, then by his parent, guardian, or master, and if a slave or servant, then by his overseer, if he be under one, or otherwise, by his master.

Surveyors how to be notified of their appointments.

V. THE Clerk of every County Court shall, within ten days after the appointment of any Surveyor of a road, deliver a copy of the order to the Sheriff of the County, under the penalty of fifteen shillings; and the Sheriff, within fifteen days after the receipt of such order, shall deliver the same to the Surveyor, under the penalty of fifteen shillings. And each Clerk shall moreover, once in every year, fix up in the Court-house, a list of the names and precincts of all the Surveyors of roads in his County, under the penalty of fifty shillings for every neglect.

Clerks annually to fix up lists of their names at their Courthouses.

Duty of the Surveyors.

VI. EVERY Surveyor of a Road shall cause the same to be constantly kept well cleared and smoothed, and thirty feet wide at the least; and at the fork or crossing of every public road, shall cause to be erected, and kept in repair from time to time, a stone, or otherwise an index on a post or tree, with plain inscriptions thereon, in large letters, directing to the most noted place to which each of the said roads shall lead, and may take stone or wood for that purpose from any adjoining land; and for the expense of setting up and inscribing such stones, posts, or indexes, and keeping them in repair, the Surveyor shall be reimbursed by the County Court in their next succeeding levy; and where bridges and causeys are necessary, the Surveyor shall cause them to be made, twelve feet broad at the least, convenient and safe, and shall keep the same in repair, and for that purpose may cut and take from the lands of any person adjoining, such, and so much timber, earth, or stone, as may be necessary, the same being first viewed and valued by two honest house-keepers, appointed and sworn for that purpose by a Justice of the Peace, unless the owner shall freely give such timber, stone, or earth, for that use; but where a road leads through a city or town, the Surveyor shall not take any timber, stone, or earth, from any lot within the town, without the permission of the owner, but shall take the same from the lands nigh or adjacent to the said town, where it will do the least injury to the proprietor; and where the assistance of wheel-carriages is necessary for making or repairing any causeys, any Justice of Peace may issue his warrant, under his hand and seal, for empowering the Surveyor to impress such necessary carriages, draught horses, or oxen, with their gear and driver, belonging to any person who, or their servants or slaves, are appointed to work on the road, and appointing two honest house-keepers, who, being sworn, shall value, by the day, the use of such carriages, draught horses, oxen, and driver, which valuation, with a certificate from the Surveyor how many days the said things were employed in the work, shall entitle the owner to an allowance for the same in the next County levy. And in the like manner shall the owner of timber, stone, or earth, taken for bridges or causeys, be entitled to the valuation thereof in the next County levy, upon a certificate from the two house-keepers who value the same. Every Surveyor of a road, who fails to do his duty as aforesaid, shall forfeit fifteen shillings for every offence.

Penalty on them for neglect.

VII. WHERE a bridge or causey shall be necessary, and the Surveyor, with his assistants, cannot make or maintain the same, the Court of the County are empowered and required to contract for the building and repairing such

How bridges and causeys are to be built and repaired, when within a county.

bridge or causey, and to levy the charge thereof in their County levy. And where such bridge or causey shall be necessary from one County to another, the Court of each County shall join in the agreement for building and repairing the same, and the charge shall be defrayed by both Counties, in proportion to the public tax or assessment paid by each. Upon every such contract or agreement, bond and security shall be given by the Untaker, payable to the Governor and his successors, for the use of the County or Counties, as the case shall be, with condition for performing the same, and may be prosecuted at the costs, and for the benefit of the County or Counties, or any person sustaining a loss by the breach thereof, as often as it shall happen, until the whole penalty of the bond shall be paid. And all such contracts made by County Courts, or others appointed by them, shall be available and binding upon the Justices and their successors, so as to entitle the Undertaker to his stipulated reward in the County levy, or to a recovery thereof, with costs, by action of debt, against the Justices refusing to levy the same.

When over any place between two counties.

VIII. WHEN the Justices of one County shall judge a bridge or causey over any place between them and another County to be necessary, they shall notify the same to the Justices of such other County, and require them to appoint three persons to meet at the said place on a certain day to be named by the Court requiring the same, to confer with three others, to be appointed by the said requiring Court, and agree on the manner and condition of executing the same; which six persons, or so many of them as meet, being not fewer than three, shall have power to agree on the manner and conditions of doing the said work, and to see that the same be done: And if the Court so required shall fail to appoint persons to act on their behalf, or to do what on their part should be done towards executing and paying for the said work, the Justices of the Court which made the requisition, shall apply to the General Court for a writ of *mandamus*, to be directed to the Justices of the other Court, commanding them to do, what on their part they ought to have done, and have failed to do, or to signify to them cause to the contrary thereof; upon the return of which writ, the General Court, if they shall be of opinion that the work is unnecessary, or that other sufficient cause is returned, shall quash the writ; or if they think otherwise, shall cause such further proceedings to be had as are usual in other cases of *mandamus* issuing from the said Court: And the like method of proceeding by way of *mandamus* shall be used, where the Justices of one County shall think it necessary to open a road to their County line, for the convenience of passing to some public place in another, and the Justices of such other shall refuse to continue the road through their County.

Penalty on persons obstructing or injuring roads or bridges.

IX. IF any person shall fell a tree into a public road, or into any stream of water, whereon there shall be any public bridge, and shall not remove the same within forty-eight hours, or shall kill a tree within the distance of fifty feet, from the road, or shall cut, pull up, destroy, or deface, any stone, or post, erected for the direction of travellers, or the indexes or inscriptions thereon, it shall be deemed a nuisance. Every free man, of full age, so offending, or the parent, master, or owner, of every child, apprentice, servant, or slave, so offending, with his or her knowledge, shall forfeit and pay ten pounds for every offence. And where any fence shall be made across a public road, the owner or tenant of the land shall pay ten shillings for every twenty-four hours the same shall be continued.

Owners of dams over which public roads pass, to keep them of a certain width.

X. THE owner or occupier of every dam over which a public road passes, shall constantly keep such dam in repair, at least twelve feet wide at the top, through the whole length thereof, and shall keep and maintain a bridge of like breadth, with strong rails on each side thereof, over the pier-head, flood-gates, or any waste, cut through or round the dam, under the penalty of ten shillings for every twenty-four hours failure; but where a mill-dam shall be carried away or destroyed by tempest, or accident, the owner or occupier thereof shall not be liable to the said penalties from thenceforth, until one month after such mill shall have been so repaired as to have ground one bushel of grain.

Penalties how to be recovered and appropriated.

XI. ALL the penalties in this Act, not otherwise directed, shall be one moiety to the informer, and the other to the use of the County, recoverable with costs, on warrant, petition, or action, as the case may be. Any Justice, who, upon his own view, shall discover a road, bridge, causey, or mill-dam, as aforesaid, out of repair, shall issue a warrant against the Surveyor, or other delinquent, and if no reasonable excuse be made for such default, may give judgment for the penalty and costs, not exceeding twenty-five shillings, or such

offenders may be presented by the Grand Juries; in all which cases of conviction, on view of a Justice, or presentment, or on private informations to Justices, where there shall be no evidence to convict the offender but the informer's own oath, the whole penalties shall be to the use of the County, towards lessening the levy thereof, and shall be annually collected and accounted for by the Sheriff, in the same manner as County levies; and to enable the Sheriff to make such collection, every Justice, immediately on conviction of any offender, where the penalty is to be to the County, shall certify the same to the Clerk of his County Court, who shall yearly, before the first day of March, deliver to the Sheriff a list of all the offenders so certified, and of all others convicted in Court, within one year preceding, of any offence against this Act.

XII. *PROVIDED*, That prosecutions for any offence herein mentioned, shall be commenced within six months after the offence committed, and not after. To be prosecuted for within six months.

XIII. THIS Act shall commence and be in force from and after the first day of January, one thousand seven hundred and eighty-seven. Commencement of this act.

CHAP. XX.

An Act for establishing Religious Freedom.

[Passed the 26th of December, 1785.†]

I.‡ WHEREAS Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was in his Almighty power to do; that the impious presumption of Legislators and Rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he disbelieves, is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion, is depriving him of the comfortable liberty of giving his contributions to the particular pastor, whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards, which proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labours for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any Citizen as unworthy the public confidence, by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously, of those privileges and advantages, to which, in common with his fellow-citizens, he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil Magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency, will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order; and finally, that truth is great and will prevail if left to herself; that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human Preamble.

† 1785, *ch.* 34.

‡ *Well aware that—See Jefferson's Notes, where this act is truly inserted.*

interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them;

No man compelled to frequent or support any religious worship. All men free to profess, and by argument to maintain their religious opinions.

II. *BE it enacted by the General Assembly*, That no man shall be compelled to frequent or support any religious worship, place, or Ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinions in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Declaration that the rights by this Act asserted, are of the natural rights of mankind.

III. AND though we well know that this Assembly elected by the people for the ordinary purposes of legislation only, have no power to restrain the Acts of succeeding Assemblies, constituted with powers equal to our own, and that therefore to declare this Act to be irrevocable, would be of no effect in law; yet we are free to declare, and do declare, that the rights hereby asserted, are of the natural rights of mankind, and that if any Act shall be hereafter passed to repeal the present, or to narrow its operation, such Act will be an infringement of natural right.

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 16th Day of *October*, in the Year of our Lord, 1786.

CHAP. XXI.

An Act forbidding and punishing Affrays.†

[Passed the 27th of November, 1786.‡]

Punishment of persons going armed before Courts of Justice, or the Ministers of Justice, or in fairs or markets in terror of the Country.

BE *it enacted by the General Assembly*, That no man, great nor small, of what condition soever he be, except the Ministers of Justice in executing the precepts of the Courts of Justice, or in executing of their office, and such as be in their company assisting them, be so hardy to come before the Justices of any Court, or either of their Ministers of Justice, doing their office, with force and arms, on pain, to forfeit their armour to the Commonwealth, and their bodies to prison, at the pleasure of a Court; nor go nor ride armed by night nor by day, in fairs or markets, or in other places, in terror of the Country, upon pain of being arrested and committed to prison by any Justice on his own view, or proof by others, there to abide for so long a time as a Jury, to be sworn for that purpose by the said Justice, shall direct, and in like manner to forfeit his armour to the Commonwealth; but no person shall be imprisoned for such offence by a longer space of time than one month.

CHAP. XXII.

An Act against Conspirators.

[Passed the 27th of November, 1786.‖]

Who shall be deemed Conspirators.

BE *it declared and enacted by the General Assembly*, That Conspirators be they that do confederate and bind themselves by oath, covenant, or other alliance, that every of them shall aid and bear the other falsely and maliciously, to move or cause to be moved any indictment or information against another on the part of the Commonwealth, and those who are convicted thereof at the suit of the Commonwealth, shall be punished by imprisonment and amercement, at the discretion of a Jury.

CHAP. XXIII.

An Act prescribing the Punishment of those who sell unwholesome Meat or Drink.

[Passed the 27th of November, 1786.§]

Punishment of those who sell unwholesome

BE *it enacted by the General Assembly*, That a Butcher or other person that selleth the flesh of any animal dying otherwise than by slaughter, or slaugh-

† 1786, *ch.* 49. ‡ *Commenced* 1 *July*, 1787. ‖ 1786, *ch.* 50. § 1786, *ch.* 53.

tered when diſeaſed, or a Baker, Brewer, Diſtiller, or other perſon, who ſelleth unwholeſome bread or drink, ſhall, on conviction by the verdict of a Jury, the firſt time be amerced; the ſecond time he ſhall ſuffer judgment of the pillory; and the third time he ſhall be impriſoned and make fine; and every time after he ſhall be adjudged to hard labour ſix months in the public works. meat or drink.

CHAP. XXIV.

An Act concerning Partitions and Joint Rights and Obligations.†

[Paſſed the 28th of November, 1786.‡]

I. BE *it enacted by the General Aſſembly*, That all joint tenants, or tenants in common, who now are, or hereafter ſhall be, of any eſtates of inheritance in their own rights, or in the right of their wives, and all joint tenants, or tenants in common, who now hold or hereafter ſhall hold, jointly, or in common, for term of life or years, with others who have, or ſhall have eſtates of inheritance, or freehold in any lands, tenements, or hereditaments, may be compelled to make partition between them, of ſuch lands, tenements, and hereditaments, as they now hold, or hereafter ſhall hold, as joint tenants, or tenants in common, by writs *de partitione facienda*, the forms whereof ſhall be deviſed in the General Court, and adapted to the caſes aforeſaid: But no ſuch partitions between joint tenants, or tenants in common, who hold or ſhall hold eſtates for term of life or years, with others holding equal or greater eſtates, ſhall be prejudicial to any entitled to the reverſions or remainders, after the death of the tenants for life, or after the expiration of the years. Joint tenants, and tenants in common, may be compelled to make partition.

II. IF partition be not made between joint tenants, whether they be ſuch as might have been compelled to make partition, or not, or of whatever kind the eſtates or thing holden or poſſeſſed be, the parts of thoſe who die firſt, ſhall not accrue to the ſurvivors, but ſhall deſcend, or paſs by deviſe, and ſhall be ſubject to debts, charges, curteſy, or dower, or tranmiſſible to executors or adminiſtrators, and be conſidered to every other intent and purpoſe, in the ſame manner as if ſuch deceaſed joint tenants had been tenants in common. The part of a joint tenant dying firſt, not to accrue to the ſurvivor.

III. THE Repreſentatives of one jointly bound with another for the payment of a debt, or for performance or forbearance of any act, or for any other thing, and dying in the life-time of the latter, may be charged by virtue of ſuch obligation, in the ſame manner as ſuch Repreſentatives might have been charged if the obligors had been bound ſeverally, as well as jointly. Repreſentatives of one jointly bound, chargeable as in joint and ſeveral obligations.

IV. PARTITION may be demanded by one and the ſame writ, of all the ſeveral parcels of land or other real eſtate to which the parties have title, and execution thereupon done by the Sheriff and Jury, as heretofore, or by ſpecial Commiſſioners to be appointed by the Court, with aſſent of the parties, by allotment to each party of part in each parcel, or of parts in one or more parcels, or of one or more individual parcels, with or without the addition of a part or parts of other parcels, as ſhall be moſt for the intereſt of the parties in general. Allotment of parcels in partitions.

V. NO plea in abatement ſhall be received in any ſuit for partition, nor ſhall it abate by the death of any tenant. No plea in abatement to be received in ſuits for partitions.

VI. AFTER a writ of partition returned, affidavit being made by ſome credible perſon, that due notice of the writ had been given to the tenant or tenants to the action, and that a copy thereof had been left with him, her, or them, if he, ſhe, or they could be found, or if not, that ſuch notice had been given to, and a copy left with the wife, ſon, or daughter, being of the age of twenty one years, or upwards, and at the uſual place of abode of ſuch as could not be found, or the perſon in actual poſſeſſion, not being the demandant of the lands whereof partition is demanded, twenty days or more before the day of return, if the tenant or tenants ſhall not cauſe an appearance to be entered, at the time by law appointed, or within one month thereafter, the demandant having filed his or her declaration, the Court may proceed to examine his, or her title, and the quantity demanded, and ſhall give judgment by default, for ſo much as he or ſhe ſhall appear to them to have a right to, and award a writ to make partition, which being executed, after eight days notice given to the perſons mentioned before, judgment final ſhall thereupon be given, which Mode of proceeding in writs of partition.

† *The commencement of this act, was on the 1ſt of July*, 1787. *See acts of* 1786, *ch.* 115.

‡ 1786, *ch.* 60.

shall be as binding as if it had been given after an appearance and upon a trial, unleſs any tenant within one year after the firſt judgment, or being an infant, a married woman, of unſound mind, or out of *Virginia*, within one year after attainment of full age, death of the huſband, recovery of underſtanding, or return to the Country, reſpectively, by motion to the Court, either admitting the demandant's right and purpart, ſhall ſhew inequality in the partition, in which caſe the Court may award a new partition to be made, and that in preſence of all the parties, if they chooſe to attend it, and the ſecond partition ſhall be as binding as if the tenant had appeared and pleaded in the firſt inſtance, or elſe ſhall ſhew ſufficient matter in bar of the partition, or that the demandant hath not title to ſo much as he or ſhe hath recovered, in which caſe the Court may ſuſpend or ſet aſide the judgment, and admit the tenant to appear and plead, and the cauſe ſhall proceed as if no judgment had been given; and if upon the trial thereof, the Court ſhall give the ſame judgment as the firſt, it ſhall ſtand confirmed, and the perſon or perſons, in whoſe behalf the motion was made, ſhall be awarded to pay coſts.

When and how under Sheriffs may execute judgments in partitions.

VII. THE Under-Sheriff, when the High-Sheriff cannot conveniently attend, may in preſence of two Juſtices of the Peace, proceed to the execution of a Judgment in partition, by inquiſition in due form of law, and the High-Sheriff ſhall make the ſame return as if he had acted in perſon.

Tenants to hold of landlords, to whom they may be allotted.

VIII. THEY who are tenants of the meſſuages, lands, tenements, and hereditaments, or any part thereof, before they were divided, ſhall hold the ſame of the landlords, to whom they ſhall be allotted by the partition, in ſeveralty, under the ſame conditions, rents, covenants, and reſervations, and the landlords ſhall warrant the ſeveral parts unto the tenants, as they were bound to do by leaſes or grants, reſpectively: And any demandant who was tenant, in actual poſſeſſion, to the tenant to the action, for his purpart of the meſſuages, lands, tenements, and hereditaments, divided by virtue of a writ of partition, or any part thereof, ſhall hold it for the ſame term, and under the ſame conditions and covenants when it ſhall be allotted in ſeveralty.

CHAP. XXV.

An Act providing that Actions popular proſecuted by Colluſion, ſhall be no Bar to thoſe which be purſued with good Faith.

[Paſſed the 28th of November, 1786.†]

Plaintiff to a plea of recovery, may reply that it was had by covin.

I. BE *it enacted by the General Aſſembly*, That if any perſon hereafter ſue with good faith any action popular, and any Defendant in the ſame action, plead any manner of recovery by action popular, in bar of the ſaid action, or that he before that time barred any Plaintiff in any ſuch action popular, then the Plaintiff in the action taken with good faith, may aver that the ſaid recovery, in the ſaid action popular, was had by covin, or elſe may aver that the ſaid Plaintiff was barred in the ſaid action popular by covin: Then if after, the ſaid colluſion or covin ſo averred be lawfully found, the Plaintiff in that action ſued with good faith, ſhall have recovery according to the nature of the action, and execution upon the ſame, in like wiſe and effect as though no ſuch afore had been had. *Provided always*, That no Plaintiff be in any wiſe received to aver any covin, in any action popular, where the point of the ſame action, or elſe the covin or colluſion ſhall have been once tried, or lawfully found with the Plaintiff, or againſt him by trial of twelve men, and not otherwiſe.

Penalty for compounding or diſcontinuing actions for certain penalties.

II IF the Proſecutor of an action or information, for the recovery of any penalty not wholly appropriated to the uſe of ſuch Proprietor, ſhall compound with the offender, or direct ſuch ſuit or information to be diſcontinued, unleſs it be by leave of the Court wherein the ſaid ſuit or information ſhall be depending, ſuch Proſecutor ſhall be liable for ſo much of the penalty to the Commonwealth, or any other, as they would have been entitled to, if the Defendant had been convicted.

† 1786, *ch.* 63.

CHAP. XXVI.

An Act declaring when the Death of Persons absenting themselves shall be presumed.†

[Passed the 1st of December, 1786.]

BE *it enacted by the General Assembly*, That any person absenting himself beyond sea, or elsewhere, for seven years successively, shall be presumed to be dead, in any case wherein his death shall come in question, unless proof be made that he was alive within that time. But an estate recovered in any such case, if in a subsequent action or suit, the person presumed to be dead, shall be proved to be living, shall be restored to him who shall have been evicted; and he may moreover demand and recover the rents and profits of the estate, during such time as he shall have been deprived thereof, with lawful interest.

CHAP. XXVII.

An Act for reforming the Method of proceeding in Writs of Right.

[Passed the 2d of December, 1786.‡]

I. BE *it enacted by the General Assembly*, That for trial of disputed titles to lands in a more simple mode than that which hath most commonly been used of late, the claimant or demandant of an estate in fee simple may sue forth against the possessor or tenant, a writ of *præcipe quod reddat*; which, issuing from the General Court, shall be in this form, or to this effect,

THE Commonwealth of Virginia, to the Sheriff of E. *greeting: Command* C. D. *that he justly and without delay render unto* A. B. *tenement containing of land, with the appurtenances in the County of* E. *which he claimeth to be his right, and whereof he complaineth that the aforesaid* C. D *doth withhold the possession. And, unless he shall do so then summon the said* C D *that he appear before the Justices of our General Court, at on the day of the next Court, to shew wherefore he hath not done it. And have you then there this writ. Witness Chief Justice of our said Court, at the day of in the year* Form of the writ.

And issuing from the Court of a County, City, or Borough, in the like form, with necessary alterations; and shall be directed to the Sheriff of that County, or the proper officer of that City or Borough, wherein the Tenant resideth, or that wherein was his last place of abode. Upon which writ the Count shall be in this form, or to this effect;

E. *to wit: A. B. by F. G. his Attorney, demands against* C. D. *tenement, containing of land, with the appurtenances, in the County of* E. *and bounded by And whereupon the said* A B. *saith that he hath right to have the tenement aforesaid, with the appurtenances, and offereth proof that such is his right.* Count.

If several tenements be demanded in the same Count, the contents, situations, and boundaries of each shall be inserted therein. To which Count the Tenant may plead in this form, or to this effect;

AND the aforesaid C. D. *by* H. I. *his Attorney, cometh and defendeth the right of the said* A. B. *when and where it behooveth him, and all that concerneth it, and whatsoever he ought to defend, and chiefly the tenement aforesaid, with the appurtenances as of right, namely, tenement, containing of land in the County of* E. *and bounded by and putteth himself upon the assize, and prayeth recognition to be made, whether he hath greater right to hold the tenement aforesaid with the appurtenances, as he now holdeth it (or them) or the said* A. B. *to have it as he now demandeth it (or them.")* Plea.

And to such plea the replication shall be in this form, or to this effect;

AND the aforesaid A. B. *in like manner putteth himself upon the assize, and prayeth recognition to be made whether he hath greater right to hold the tenement aforesaid as he demandeth, or the said* C. D. *as he holdeth it (or them.")* Replication.

Whereupon twelve good and lawful men, qualified as Jurors are required to be, shall be elected, tried, and charged as the manner is, to make recognition of the assize; which charge shall be in this form, or to this effect; Jury.

† *The commencement of this act was on the 1st of July*, 1787. *See acts of* 1786, *ch.* 115.

‡ 1786, *ch.* 39.

Charge to the Jury.

YOU shall say the truth, whether C. D. *hath more right to hold the tenement, which* A. B. *demandeth against him, by his Writ of Right, or* A. B. *to have it, (or them) as he demandeth.*"

What might have been specially pleaded may be given in evidence.

And at the trial, any matter may be given in evidence which might have been specially pleaded. And upon the verdict, or in the case of a demurrer, the like judgment shall be given, and upon such judgment, the like execution awarded, as in case of a writ of right; and the party, for whom judgment shall be given,

Judgment, execution, costs and damages.

shall recover his costs of suit; and the Demandant, if he recover his seisin, may also recover damages to be assessed by the recognitors of assize, for the Tenants withholding possession of the tenement demanded.

Mode of proceeding if return be made that the tenant is not found.

II. WHERE the *præcipe quod reddat* shall issue from the General Court, if return thereof be made that the Tenant is not found in the Bailiwick of the Officer to whom it was directed, the Demandant may sue forth a writ of *exigi facias*, in this form, or to this effect:

THE Commonwealth of Virginia to the Sheriff of E. *greeting: We command you that you cause* C. D. *to be required from County Court to County Court until five Courts be passed if he doth not appear, and if he doth appear then summon him that he be before the Justices of our General Court at on the day of the next Court, to shew wherefore he hath not rendered unto* A. B. *tenement containing of land, with the appurtenances, in the County of* E. *And have you then there this writ Witness Chief Justice of our said Court, at , the day of , in the year* "

And when the residence or last place of abode of the Tenant shall be out of the County, in which the land demanded lieth, a like writ of *exigi facias* shall also be directed to the Sheriff of the latter County, and in either case a copy of such writ shall within four weeks after the teste thereof, be printed in the Virginia Gazette; and the said writ or writs of *exigi facias* being returned in due form, and being printed as aforesaid, if the Tenant shall not appear at the Court to which the same is or are returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant.

III. WHERE the *præcipe quod reddat* shall issue from the Court of a County, City, or Borough, if return thereof be made that the Tenant is not found in the Bailiwick of the officer to whom it was directed, the Demandant may sue forth a new *præcipe* every Court, for five Courts following, successively, if the Tenant be not by one or other of them before summoned; and when the residence or last place of abode of the Tenant shall be out of the County, City, or Borough, in which the land demanded lieth, a *testatum præcipe* shall also be directed to the Sheriff or proper Officer of the latter County, City, or Borough; and in either case a copy of the first of the said five *præcipes*, shall, within four weeks after the teste thereof, be printed in the Virginia Gazette, and a copy of that and every other of them, shall, within fourteen days after the teste of each, be set up at the door of his Courthouse, by the Officer to whom it shall be directed, and who, by an endorsement on such writ, shall be required by the Clerk to do so; and return of the said five writs being made, that the Tenant is not found in the bailiwick or bailiwicks of the Officer or Officers, to whom they were directed, and that they had been set up as is before directed, and the

Judgments against tenants in certain cases, no bar to actions brought by them.

first of them being printed as aforesaid, if the Tenant shall not appear at the Court to which some one of the said writs was returnable, judgment shall be entered, that the Demandant recover his seisin against the Tenant; but if the Tenant, against whom, without having appeared, or without having been summoned, any such judgment shall be rendered, shall be out of *Virginia*, at the time of the suit brought, the judgment shall be no bar to an action commenced by him, or any claiming under him, to be restored to the land recovered, within a year and a day after he or they shall come into the Country, or remaining out of it, within seven years after the judgment; in which action, or in a separate one, damages may also be recovered.

Judgments by default.

IV. IF the Tenant whether summoned or not, shall appear, and afterwards make default, judgment shall be entered against him; and if having been summoned he shall not appear, the Court shall make an order, that, unless he appear at the then next Court, *(a) or see* judgment shall be entered against him, which shall be entered accordingly, if a copy of that order being delivered to him, or left at the place of his usual abode, fifteen days, or more, before such next Court, and affidavit thereof being made, he shall not then appear.

(a) The words "or see" are in the roll, but it is supposed were inserted by mistake.

Reservation of the rights of infants, femes covert, and lunatics.

V. IF the Demandant or Tenant, againſt whom any ſuch judgment ſhall be rendered, at the time of the ſuit brought, ſhall be an infant, a married woman, or a perſon of unſound mind, the judgment ſhall be no bar to another action, commenced within five years after attainment of full age, diſcoverture, or recovery of underſtanding, or within the ſame time after the death of ſuch privileged perſon.

CHAP. XXVIII.

An Act for the Suppreſſion and Puniſhment of Riots, Routs, and unlawful Aſſemblies.

[Paſſed the 4th of December, 1786 †]

Duty of the Juſtices in ſuppreſſing Riots, Routs &c. and in puniſhing the offenders;

I. BE *it enacted by the General Aſſembly*, That if any Riot, Aſſembly, or Rout of People, againſt the law, be made in any part of the Commonwealth, the Juſtices of Peace, three, or two of them at the leaſt, and the Sheriff, or Under-Sheriff of the County, or Serjeant of a Corporation, as the caſe may be, where ſuch Riot, Aſſembly, or Rout ſhall be made, ſhall come with the power of the County, (if need be) to arreſt them, and ſhall arreſt them; and the ſame Juſtices and Sheriff, Under-Sheriff, or Serjeant, ſhall have power to record that which they ſhall find ſo done in their preſence againſt the Law, by which record ſuch treſpaſſers and offenders ſhall be convict, and ſhall be taken and put in the Jail of the ſame County or Corporation, there to abide for ſo long time as ſhall be limited by a Jury, to be ſworn by the Judges for that purpoſe, and further until they ſhall have paid ſuch amercement as the ſame Jury ſhall aſſeſs.

II. AND if it happen that ſuch treſpaſſers and offenders be departed before the coming of the ſaid Juſtices and Sheriff, Under-Sheriff, or Serjeant, the ſame Juſtices, three, or two of them, ſhall diligently enquire within a month after ſuch riot, aſſembly, or rout of people ſo made, and thereof ſhall hear and determine according to Law; and for this purpoſe the Sheriff, or Serjeant, having a precept directed to him, ſhall return twenty-four fit perſons, twelve of whom having been ſworn, ſhall enquire of the ſaid riot, rout, or unlawful aſſembly, and award, againſt thoſe whom they ſhall find guilty thereof, due pains, by amercement and impriſonment, as is before directed; and if ſo many of them ſhould not appear, thoſe who make default ſhall be fined, by the ſame Juſtices, five pounds each; and if the default be in the Sheriff, Under-Sheriff, or Serjeant, he ſhall forfeit to the Commonwealth, twenty pounds.

How they ſhall be proſecuted in the General Court, in caſe they be not convicted and puniſhed by the Juſtices.

III. AND if the ſaid riot, rout, or unlawful aſſembly, be not found by the ſaid Jury, by reaſon of any maintenance, embracery, partiality, or other miſbehaviour of the ſaid Jurors, then the ſaid Juſtices, and the Sheriff, Under-Sheriff, or Serjeant, ſhall certify the whole matter and circumſtances to the General Court, and alſo the names of the maintainers and embracers in that behalf, if any be, with their miſdemeanours that they know, in order that they may be duly proſecuted, upon pain of every of the ſaid Juſtices and Sheriff, Under Sheriff, or Serjeant, to forfeit twenty pounds, if they have no reaſonable excuſe for not certifying the ſame, which certificate ſhall be of like force as the preſentment of a Grand Jury; and thereupon the ſaid treſpaſſers and offenders being put to anſwer, they which ſhall be found guilty, ſhall be puniſhed by impriſonment and amercement, according to the diſcretion of a Jury, as is before directed; and if the ſame treſpaſſers do not appear before the General Court at the firſt precept, then ſhall another precept be directed to the Sheriff of the County, to take the ſaid treſpaſſers and offenders, if they may be found, and to bring them at a certain day before the General Court; and if they cannot be found, the Sheriff, Under-Sheriff, or Serjeant, ſhall make Proclamation in his ſaid County, or Corporation, next enſuing the delivery of the ſecond precept, that they ſhall appear before the General Court on a day named; and in caſe the ſame offenders come not as afore is ſaid, and the Proclamation made and returned, they ſhall be convict and attainted of the riot, aſſembly, or rout aforeſaid.

Penalty on Juſtices for neglect of the duties preſcribed by this act.

IV. AND moreover, the Juſtices of Peace in every County or Corporation, where ſuch riot, aſſembly, or rout of people ſhall be made, in caſe the ſame be made in their preſence, or if none be preſent, then the Juſtices having notice thereof, together with the Sheriff, Under-Sheriff, or Serjeant, of the ſame

† 1786, *ch.* 48.

County or Corporation, shall do execution of this act, every one upon pain of twenty pounds, to be paid to the Commonwealth, as often as they shall be found in default of the execution of the said act.

Duty of the General Court in case of such neglect.

V. AND on such default of the Justices and Sheriff, Under-Sheriff, or Serjeant, a commission shall go from the General Court at the instance of the party grieved, to enquire as well of the truth of the case, and of the original matter for the party complainant, as of the default or defaults of the said justices, Sheriff, Under-Sheriff, or Serjeant, in this behalf supposed, to be directed to sufficient and indifferent persons at the nomination of the Judges; and the said Commissioners presently shall return into the General Court the inquests and matters before them in this behalf taken and found:

Persons convicted of Riots, may be imprisoned for one year.

VI. BUT no persons convicted of a riot, rout, and unlawful assembly, shall be imprisoned for such offence by a longer space of time than one year. Persons legally convicted of a riot, rout, or unlawful assembly, otherwise than in the manner directed by this Act, shall be punished by imprisonment and amercement, at the discretion of a Jury, under the like limitation.

CHAP. XXIX.

An Act prescribing a Method of protesting Inland Bills of Exchange, and allowing Assignees of Obligations to bring Actions thereupon in their own Names.†

[Passed the 4th of December, 1786.‡]

Mode of protesting inland bills of exchange.

I. BE *it enacted by the General Assembly*, That if a Bill of Exchange, for the sum of five pounds, or upwards, dated at any place in *Virginia*, drawn upon a person at any other place therein, expressed to be for value received, and payable at a certain number of days, weeks, or months after date, being presented to the person, upon whom it shall be drawn, shall not be accepted by subscribing his name, with his proper hand to the acceptance, written at the foot, or on the back of the Bill, or being accepted in that manner, and not otherwise, shall not be paid before the expiration of three days after it shall become due, the person to whom it shall be payable, or his Agent, or Assigns, may cause the Bill to be protested by a Notary Public, or if there be no such, by any other person in presence of two or more credible witnesses, for non-acceptance, in the form or to the effect following, written under a fair copy of the Bill:

Form of the protest.

KNOW all men, that I, , on the day of , at the usual place of abode of the above named , presented to him the Bill, of which the above is a copy, and which the said did not accept, wherefore I, the said , do hereby protest the said Bill. Dated at , this day of ;"

Or for non-payment after acceptance, in the same form or to the same effect, except that the words "presented to him the Bill, of which the above is a copy, and which the said did not accept," shall be left out, and instead of them, the words "demanded payment of the Bill, of which the above is a copy, and which the said did not pay," be inserted: And the Drawer, such protest being sent to him, or notice thereof in writing being given to him, or left at the place of his usual abode, within fourteen days thereafter, shall pay the money mentioned in the Bill to the person entitled to it, with interest, at the rate of five *per centum* by the year, from the day of the protest; and he, to whom the Bill shall be payable, neglecting to procure the protest to be made, or due notice thereof to be given, shall be liable for all costs and damages accruing thereby.

Notice to the drawer.

Payee neglecting to protest or give notice, liable to costs and damages.

New bills to be given when the first are lost.

II. IF the Bill shall be lost, or shall miscarry, the Drawer shall sign and deliver another of the same tenor, sufficient security being given to indemnify him against all persons who may claim under the former.

Action of debt may be maintained on a note or writing for money or tobacco.

III. AN action of debt may be maintained upon a Note or Writing, by which the person signing the same, shall promise or oblige himself to pay a sum of money or quantity of tobacco to another.

Assignments of bonds, bills, &c. valid, and assignees may sue in their

IV. ASSIGNMENTS of Bonds, Bills, and Promissory Notes, and other writings obligatory, for payment of money or tobacco, shall be valid; and an Assignee of any such, may thereupon maintain an action of debt, in his

† *Commenced 1st July*, 1787. *See Acts* 1786, *ch.* 115. *Explained and amended in* 1795, *ch.* 14.

‡ 1786, *ch.* 68.

own name, but shall allow all just discounts, not only against himself, but against the Assignor, before notice of the assignment was given to the Defendant. own names, allowing just discounts.

CHAP. XXX.

An Act against conveying or taking pretenced Titles.†

[Passed the 6th of December, 1786.‡]

BE *it enacted by the General Assembly*, That no person shall convey or take, or bargain to convey or take, any pretenced title to any lands or tenements, unless the person conveying or bargaining to convey, or those under whom he claims, shall have been in possession of the same, or of the reversion or remainder thereof, one whole year next before; and he who offendeth herein knowingly, shall forfeit the whole value of the lands or tenements; the one moiety to the Commonwealth, and the other to him who will sue as well for himself as for the Commonwealth: But any person lawfully possessed of lands or tenements, or of the reversion or remainder thereof, may nevertheless take or bargain to take the pretenced title of any other person, so far, and so far only, as it may confirm his former estate. Punishment of those who sell or purchase pretensed titles to lands or tenements.

CHAP. XXXI.

An Act against Usury.§

[Passed the 8th of December, 1786.‖]

I. BE *it enacted by the General Assembly*, That no person shall hereafter, upon any Contract, take directly or indirectly, for loan of any money, wares, or merchandise, or other commodity, above the value of five pounds,* for the forbearance of one hundred pounds for a year, and after that rate for a greater or lesser sum, or for a longer or shorter time; and all Bonds, Contracts, Covenants, Conveyances, or Assurances hereafter to be made, for payment or delivery of any money, or goods, so to be lent, on which a higher interest is reserved or taken, than is hereby allowed, shall be utterly void. Rate of legal interest §

Bonds, contracts, conveyances, &c. for a greater rate, void.

II. IF any person shall, by any way or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive, for the loan of, or giving day of payment for money, wares, merchandise, or other commodity, above the rate of five pounds for one hundred pounds for one year, every person so offending, shall forfeit double the value of the money, wares, merchandise, or commodity so lent, exchanged, or shifted; one moiety to the use of the Commonwealth, and the other to the informer, to be recovered with costs. Penalty on persons taking a greater rate.

III. ANY Borrower of money, or goods, may exhibit a Bill in Chancery against the Lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them, relative to such loan, or the re-payment thereof, and the interest or consideration for the same; and if thereupon, it shall appear, that more than lawful interest was reserved, the Lender shall be obliged to accept his principal money, without any interest, or other consideration, and pay costs, but shall be discharged of all other penalties of this Act. How relief may be obtained against usurious contracts.

IV. EVERY Broker, Solicitor, or Driver of Bargains, who shall hereafter directly or indirectly, take or receive more than the rate or value of five shillings, for brokerage, or soliciting the loan or forbearance of one hundred pounds for a year, or above one shilling for making or renewing the Bond or Bill, for such loan or forbearance, or for any Counter-Bond or Bill, concerning the same, shall forfeit for every offence, twenty pounds to the Commonwealth and informer, to be recovered and divided, as herein before is mentioned. Rates of brokerage on loans.

† *Commenced 1st July*, 1787. *See Acts of* 1786, *ch.* 115.

‡ 1786, *ch.* 51.

§ *Commenced 1st July*, 1787. *See Acts of* 1786, *ch.* 115. *Amended* 1796, *ch.* 16.

‖ 1786, *ch.* 55.

* *Altered by Act of* 1796, *ch.* 16—*there* 6 *per cent. made lawful interest.*

General Assembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 15th Day of *October*, in the Year of our Lord, 1787.

CHAP. XXXII.

An Act to supply the Defect of Evidence of the Royal Assent to certain Acts of Assembly under the former Government.

[Passed the 14th of December, 1787.†]

Preamble.

I. WHEREAS divers Acts of the General Assembly of *Virginia*, as well public as private, were passed during the former regal Government, with clauses therein for their suspension, until the Royal approbation thereof respectively should be obtained, a notification of which assent when transmitted hither from Great-Britain, was registered in the Council books of that time; but as most of those books were lost or destroyed during the late war, persons who may be interested to prove the fact of such assent having been obtained, are deprived of that highest species of evidence, whereby many citizens may be involved in expensive and troublesome contentions, and in the private cases purchasers may lose not only their purchase-money, but valuable improvements: For remedy wherein,

What evidence may be received of the royal assent to certain Acts passed under the former government.

II. *BE it enacted by the General Assembly*, That from and after the passing of this Act, when in any Court of Law or Equity a question shall arise, whether an Act of Assembly passed with a clause suspending such Act until the Royal approbation thereof was obtained, hath received such approbation, every such question shall be discussed upon such evidence and circumstances as may be produced by the parties, without requiring either party to shew the official assent to such Act, or a certificate from the Council books that such assent was registered therein; any law, usage, or custom, to the contrary notwithstanding.

CHAP. XXXIII.

An Act for the Relief of Persons who have been, or may be injured by the Destruction of the Records of County Courts.

[Passed the 17th of December, 1787.‡]

Preamble.

I. WHEREAS the records of several County Courts within this Commonwealth, and other papers of consequence, have been, or may be destroyed by fraud, accident, or otherwise, to the great injury of the Citizens of this Commonwealth: For relief, therefore, of such persons whose estates, titles, or interests have been, or may be affected thereby;

County Courts to admit to record deeds, wills, bonds and other papers which have been recorded, or filed where the records have been destroyed.

II. *BE it enacted by the General Assembly*, That the Courts of the Counties where any such losses may have accrued, or shall hereafter accrue, when any original deeds, with an indorsement of the acknowledgment or proof thereof, and order for recording the same, attested by the Clerk of the Court, or the copies of any deeds with the indorsement so attested, or any wills, with the indorsement of the proof and the order for recording the same so attested, or of any judgment, decree, or order of Court, in like manner attested, or of any inventory or other document before admitted to record in such Court, and of all bonds, bills, notes, and all other papers necessarily filed in the office of such County, (the original of the same being lost, or otherwise destroyed) shall be produced to them, shall order the Clerk again to record all such original deeds, copies of deeds, or wills, with the said endorsements respectively; and all such copies of judgments, decrees, and orders of the Court of their County, or of inventories or other documents; and the said Clerk, when he shall have recorded any thing in pursuance of this Act, shall indorse on the same that the original had been lost or destroyed, and shall make an entry to the same effect on the record with the thing recorded, which shall have the same operation and effect in Law, to all intents and purposes, as the original record would have had.

† 1787, *ch.* 20. ‡ 1787, *ch.* 17.

III. *AND be it alſo enacted*, That the Clerks of the ſeveral Counties ſhall do and perform the ſervices in this Act mentioned, for the ſame fees that are allowed by law in other caſes, for a copy of any thing herein beforementioned; and in like manner, ſhall take no other or greater fee for recording any deed which hath been already recorded, or ſhall be made only by occaſion of the misfortune aforeſaid, for ſettling the right or title of any perſon or perſons whatſoever, to lands and tenements, ſlaves, or goods and chattels, than in other caſes is, or ſhall be allowed by Law for the copy of any ſuch deed; any law, uſage, or cuſtom, to the contrary notwithſtanding. Clerk's fees for recording them.

IV. *AND be it further enacted*, That it ſhall and may be lawful for the Governor, with the advice of Council, to iſſue one or more commiſſions, as the caſe may require, under the ſeal of the Commonwealth, to nine able and diſcreet perſons directed, giving them, or any of them full power and authority to meet at ſome convenient place, by them to be appointed, and to adjourn from time to time as they ſhall think fit, and to ſummon, hear, and examine all witneſſes, at the inſtance of any perſon, touching the premiſes, and to take their depoſitions in writing, and to return the ſame with ſuch commiſſion or commiſſions, to the Executive; which depoſitions ſhall be by them laid before the General Aſſembly at the next Seſſion, to the end that they may be enabled to grant ſuch effectual relief to the ſufferers by the loſs of the ſaid records as to them ſhall ſeem juſt and reaſonable. And the ſaid commiſſioners ſhall have power to appoint ſome perſon ſkilled in clerkſhip, to attend them for keeping a journal of their proceedings, and drawing the depoſitions aforeſaid; which perſon ſhall be paid for his ſervices by each County reſpectively. Governor and Council to appoint commiſſioners to take depoſitions reſpecting records deſtroyed. Depoſitions to be laid before the General Aſſembly.

CHAP. XXXIV.

An Act to authoriſe the Eſtabliſhment of Fire Companies.

[Paſſed the 7th of January, 1788.†]

I. WHEREAS the danger to which the ſeveral towns within this Commonwealth are expoſed from fire, is chiefly occaſioned by the want of Fire-Companies duly organized, and it is neceſſary that ſuch companies be incorporated, in order to give them their full effect: *Be it enacted*, that it ſhall be lawful for any number of perſons reſident within any Town, Borough, or Corporation, within this Commonwealth, exceeding forty perſons, to form themſelves into a company or companies for the purpoſe of extinguiſhing fire, who, on having their names and ſubſcriptions recorded in the Court of the County or Corporation where they reſide, are hereby authoriſed to make ſuch rules and regulations as to a majority of the ſaid company or companies may ſeem proper and neceſſary for the procuring of Engines, and other neceſſary implements for working the ſaid Engines, and exerciſing the companies raiſed. And that all fines and forfeitures for non-attendance or delinquency impoſed by the ſaid regulations, not exceeding twenty-five ſhillings, ſhall be recoverable before a ſingle Magiſtrate on proof of ſuch delinquency, which ſaid fines and forfeitures ſhall be applied to the purpoſes of their inſtitutions. Preamble. Fire-Companies, how to be formed. May eſtabliſh rules for their government. Fines incurred by the members, how recoverable.

II. *PROVIDED always*, That all Bye-laws or rules to be made by virtue of this Act, which are contrary to the Conſtitution or Laws of the Commonwealth, ſhall be null and void. Bye-laws not to contravene the conſtitution or laws.

General Aſſembly, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 20th Day of *October*, in the Year of our Lord, 1788. 1788.

CHAP. XXXV.

An Act to prevent the Importation of Convicts into this Commonwealth.

[Paſſed the 13th of November, 1788.‡]

WHEREAS it has been repreſented to this General Aſſembly, by the United States in Congreſs, that a practice has prevailed for ſome time Preamble.

† 1787, ch. 36. ‡ 1788, ch. 1/2

paſt, of importing felons convict into this State, under various pretences, which ſaid felons convict ſo imported have been ſold and diſperſed among the people of this State, whereby much injury hath been done to the morals, as well as the health, of our fellow-citizens: For remedy whereof, *Be it enacted*, that from and after the firſt day of *January* next, no Captain or Maſter of any veſſel, or any other perſon, coming into this Commonwealth, by land or by water, ſhall import, or bring with him, any perſon who ſhall have been a felon convict, or under ſentence of death, or any other legal diſability incurred by a criminal proſecution, or who ſhall be delivered to him from any priſon or place of confinement, in any place out of the United States.

No felons convict, under ſentence of death, or other legal diſability to be brought into the ſtate.

II. *AND be it further enacted*, That every Captain or Maſter of a veſſel, or any other perſon, who ſhall preſume to import, or bring into this Commonwealth, by land or by water, or ſhall ſell or offer for ſale, any ſuch perſon as above deſcribed, ſhall ſuffer three months impriſonment, without bail or mainprize, and forfeit and pay for every ſuch perſon ſo brought and imported, or ſold or offered for ſale, the penalty of fifty pounds current money of *Virginia*, one half to the Commonwealth, and the other half to the perſon who ſhall give information thereof; which ſaid penalty ſhall be recovered by action of debt, or information in any Court of Record, in which the Defendant ſhall be ruled to give ſpecial bail.

Puniſhment of thoſe who bring them or offer them for ſale.

CHAP. XXXVI.

An Act to diſable certain Officers under the Continental Government from holding Offices under the authority of this Commonwealth.

[Paſſed the 8th of December, 1788.†]

Preamble.

I. WHEREAS the good people of this Commonwealth, in Convention aſſembled, did, on the twenty-fifth day of *June* laſt, ratify a Conſtitution for the Government of the United States of *America*, the operations of which will ſoon commence; and whereas it is judged expedient and neceſſary that all thoſe who ſhall be employed in the adminiſtration of the ſaid Government, ought to be diſqualified from holding or adminiſtering any office or place whatſoever under the Government of this Commonwealth:

Officers under the United States incapable of holding offices under the Government of the State.

II. *BE it therefore enacted by the General Aſſembly*, That the members of the Congreſs of the United States, and all perſons who ſhall hold any Legiſlative, Executive, or Judicial Office, or other Lucrative Office whatſoever, under the authority of the United States, ſhall be ineligible to, and incapable of holding any Seat in either Houſe of the General Aſſembly, or any Legiſlative, Executive, or Judicial Office, or other Lucrative Office whatſoever under the Government of this Commonwealth. *Provided nevertheleſs*, that ſuch diſqualification ſhall not extend to militia Officers, or the Magiſtrates of County Courts.

Diſqualification not to extend to Militia Officers or Magiſtrates.

CHAP. XXXVII.

An Act concerning the Credentials of the Senators, of this Commonwealth in Congreſs.

[Paſſed the 22d of December, 1788.‡]

Governor to cauſe credentials to be delivered to the Senators.

I. BE *it enacted by the General Aſſembly*, That ſo ſoon as any election ſhall be made of Senators for this Commonwealth, in purſuance of the Conſtitution of the United States of *America*, the Clerk of the Houſe of Delegates ſhall notify the ſame to the Governor, who ſhall cauſe a Credential to be made out, and the Seal of the Commonwealth affixed thereto, ſhall ſign the ſame, and cauſe it to be delivered to each Senator; which Credential ſhall be in the words following:

Form of credentials;

VIRGINIA, *to wit: The Legiſlature of this Commonwealth, on the day of , one thouſand ſeven hundred and , having, in purſuance of the Conſtitution for the United States of* America, *choſen Eſquire a Senator, I, , being Governor or Chief Magiſtrate of the Commonwealth, do hereby certify the ſame to the Senate of the ſaid United States. Given under my hand, and the ſeal of the Commonwealth, this day of one thouſand ſeven hundred and*

† 1788, *ch.* 38. ‡ 1788, *ch.* 55.

A like notification shall be made, and a like Credential shall be delivered to *Richard Henry Lee*, and *William Grayson*, Esquires, respectively, who have been chosen Senators for this Commonwealth.

II. WHENEVER the Executive shall, by virtue of the said Constitution, make a temporary appointment of a Senator, a Credential shall be prepared with the forms and solemnities aforesaid, and shall be delivered to such temporary Senator, in the words following:

In case of temporary appointments.

VIRGINIA, *to wit*: A. B. *Esquire, who was duly chosen a Senator for this Commonwealth, in pursuance of the Constitution for the United States of* America, *having died (resigned, or otherwise, as the case may be) during the recess of the Legislature of the Commonwealth, I,* *being Governor or Chief Magistrate of the Commonwealth, have therefore thought fit, by and with the advice and consent of the Privy Council, or Council of State, and by virtue of the said Constitution to appoint* , *Esquire, to be and act as a Senator for the Commonwealth, until the next meeting of the Legislature thereof. Given under my hand, and the seal of the Commonwealth, this day of* *one thousand seven hundred and*

CHAP. XXXVIII.

An Act allowing travelling Expenses to the Judges of the General Court.

[Passed the 23d of December, 1788.†]

Judges allowed sixpence per mile.

I. BE *it enacted by the General Assembly*, That in consideration of the additional services to be performed by the Judges of the General Court, as Judges of the District Courts, they shall receive (exclusive of their salaries established by Law) each the sum of sixpence per mile, for travelling to and from the Courts of their respective Circuits.

Treasurer to advance half yearly money for travelling expenses.

II. THE Treasurer shall half yearly advance to each of the said Judges, upon the allowance hereby made to them, a sum for travelling expenses, not exceeding twenty-five pounds, to be accounted for by them respectively.

CHAP. XXXIX.

An Act concerning the Election of Members of the General Assembly.‡

[Passed the 25th of December, 1788.‖]

Preamble.

I. WHEREAS the mode of contesting disputed Elections hath heretofore been found to be attended with great inconvenience and delay, *Be it enacted by the General Assembly*, that any person intending to contest the Election of any person returned to serve as a Senator or Delegate, from any County, shall, within twenty days after the assembling of the Sheriffs to make a return in the former case, or within ten days after the day of Election in the latter, give to the person returned to serve, notice thereof in writing; and moreover shall deliver to him at the same time, a list of those persons to whose votes he hath objection, distinguishing his several objections against the names of the voters; and where he hath any other objection to the legality of the Election, or the eligibility of the person returned, as aforesaid, he shall, in like manner, give notice thereof, distinguishing his particular objections; and the person returned as aforesaid, shall, within twenty days after receiving such notice, deliver the like lists on his part.

Notices and lists of exceptionable votes to be delivered by each to the other.

Commissioners to take depositions, how to be appointed.

II. WHERE the contest is for the office of a Senator, any one or more of the Courts in the Senatorial District; or where it is for the office of a Delegate, the Court of the County, shall, upon the application of either party, appoint five Commissioners to take the depositions of such witnesses as shall be produced to them; any three of which said Commissioners shall be sufficient for the purpose. But no Commissioner shall act without having first taken, before some Justice, an oath to act impartially. Reasonable notice, in writing, of the time and place of taking such depositions, shall be given, by either party to the other.

Notices how to be given.

III. NOTICE in any of the cases before-mentioned, as well as the lists, left with his wife, or any other free person over the age of twenty-one years,

† 1788, *ch.* 70. ‡ *See pa.* 19. ‖ 1788, *ch.* 52.

belonging to his family, other than a Negro or Mulatto, or, in caſe of their abſence, then at the dwelling-houſe, ſhall be deemed ſufficient. The depoſitions ſhall be certified by the Commiſſioners taking the ſame, ſealed up and ſent by them to the Clerk of that Houſe of which the perſon was returned a Member, without delay.

Complaints when to be lodged.

IV. COMPLAINT ſhall be lodged againſt a Member within ten days after the meeting of the Aſſembly, where the conteſted Election ſhall have been holden at the ſtated annual period, or within twenty days after the Election, where ſuch Election ſhall have been holden in conſequence of an intermediate vacancy; and the depoſitions taken as aforeſaid, ſhall be, by the Clerk of each Houſe, reſpectively, delivered to the Speaker thereof, to be committed with the petition of the party complaining, and ſhall be received and read as evidence upon the hearing thereof; ſubject, however, to the exceptions of the oppoſite party.

Witneſſes how ſummoned and privileged.

V. SUBPOENAS for witneſſes ſhall be iſſued by the Clerks of the County Courts upon the application of either party. And the witneſſes ſhall be entitled to the ſame allowance, be privileged from arreſts, and be ſubject to the like penalties, as witneſſes attending the County Courts.

Penalty for voting twice at elections.

VI. IF any perſon ſhall vote a ſecond time, at any Election, for Members of the General Aſſembly, he ſhall forfeit and pay ten pounds, to be recovered, with coſts of ſuit, in any Court of Record, by action of debt, bill, plaint, or information, to the uſe of the perſon who will ſue for the ſame.

VII. *AND be it further enacted*, That the Sheriff conducting the Election in any County in the Diſtrict of *Kentucky*, ſhall, at the requeſt of any one or more of the Candidates, adjourn the Election until the next day, although the Electors who appear be not too numerous to be polled before ſun-ſetting, or there be no rain, or riſe of water courſes.

County Courts may remit penalties for not voting.

VIII. *AND be it further enacted*, That the ſeveral County Courts ſhall be empowered, for good cauſe to them ſhewn, to remit any penalty incurred by a Freeholder, for not having given his vote at any Election for a Delegate or Senator, according to law.

Repealing clauſe.

IX. SO much of every Act and Acts, as comes within the purview of this Act, ſhall be, and the ſame is hereby repealed.

CHAP. XL.

An Act concerning the Territory ceded by this Commonwealth to the United States.†

[Paſſed the 30th of December, 1788.‡]

Preamble.

I. WHEREAS the United States in Congreſs aſſembled, did, on the ſeventh day of *July*, in the year of our Lord one thouſand ſeven hundred and eighty-ſix, ſtate certain reaſons, ſhewing that a diviſion of the Territory which hath been ceded to the ſaid United States by this Commonwealth, into States, in conformity to the terms of Ceſſion, ſhould the ſame be adhered to, would be attended with many inconveniences, and did recommend a reviſion of the Act of Ceſſion, ſo far as to empower Congreſs to make ſuch a diviſion of the ſaid Territory into diſtinct and republican States, not more than five, nor leſs than three in number, as the ſituation of that Country and future circumſtances might require: And the ſaid United States in Congreſs aſſembled, have in an ordinance for the government of the Territory North-weſt of the river *Ohio*, paſſed on the thirteenth of *July*, one thouſand ſeven hundred and eighty-ſeven, declared the following as one of the articles of compact between the original States, and the People and States in the ſaid Territory, viz.

THAT there ſhall be formed in the ſaid Territory not leſs than three, nor more than five States, and the boundaries of the ſaid States, as ſoon as Virginia *ſhall alter her Act of Ceſſion, and conſent to the ſame, ſhall become fixed and eſtabliſhed as follows, to wit: The Weſtern State in the ſaid Territory, ſhall be bounded by the* Miſſiſippi, *the* Ohio, *and* Wabaſh *rivers, a direct line drawn from the* Wabaſh *and* Poſt Vincent's, *due North to the territorial line, between the United States and* Canada, *and by the ſaid territorial line to the* Lake of the Wood *and* Miſſiſippi: *The middle State ſhall be bounded by the ſaid direct line, the* Wabaſh *from* Poſt Vincent's *to the*

† *Vide ante, ch.* 7. ‡ 1789, *ch.* 79.

Ohio, *by the* Ohio, *by a direct line drawn due North from the mouth of the* Great Miami, *to the said territorial line, and by the said territorial line. The Eastern State shall be bounded by the last mentioned direct line, the* Ohio, Pennsylvania, *and the said territorial line. Provided however, and it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said Territory which lies North of an East and West line, drawn through the Southerly bend or extreme of lake* Michegan. *And whenever any of the said States shall have sixty thousand free inhabitants therein, such State shall be admitted by its Delegates into the Congress of the United States, on an equal footing with the original States in all respects whatsoever, and shall be at liberty to form a permanent Constitution and State Government, provided the Constitution and Government so to be formed shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.*

And it is expedient that this Commonwealth do assent to the proposed alteration, so as to ratify and confirm the said Article of Compact between the original States, and the People and States in the said Territory.

II. *BE it therefore enacted by the General Assembly*, That the afore-recited Article of Compact between the original States, and the People and States in the Territory North-west of *Ohio* river, be, and the same is hereby ratified and confirmed, any thing to the contrary, in the deed of Cession of the said Territory by this Commonwealth to the United States, notwithstanding.

An article of the compact between the United States and the people and states North-West of the Ohio, ratified by this Commonwealth.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 19th Day of *October*, in the Year of our Lord, 1789.* 1789.

CHAP. XLI.

An Act for the safe keeping of Prisoners committed under the Authority of the United States, into any of the Jails of this Commonwealth †

[Passed the 12th of November, 1789.]

I. BE *it enacted by the General Assembly*, That it shall be the duty of the Keeper of the Jail in every District, County, or Corporation within this Commonwealth, to receive into his custody any prisoner or prisoners, who may be from time to time committed to his charge, under the authority of the United States, and to safe keep every such prisoner or prisoners according to the warrant or precept of commitment, until he shall be discharged by the due course of the laws of the United States.

Jailors to receive prisoners of the United States.

II. *AND be it further enacted*, That the Keeper of every Jail aforesaid, shall be subject to the same pains and penalties for any neglect or failure of duty herein, as he would be subject to, by the laws of this Commonwealth, for a like neglect or failure, in the case of a prisoner committed under the authority of the said laws.

Penalties on them for neglect of duty.

III. *PROVIDED always*, That the United States do pay or cause to be paid for the use and keeping of such Jails, at the rate of fifty cents per month, for each prisoner, that shall under their authority be committed thereto, during the time such prisoner shall be therein confined, and moreover, do support such of the said prisoners, as shall be committed for offences.

United States to pay for the use of the jail, and to support prisoners committed for offences.

* *As the act of* 1789, *ch.* 9, *which declares that every act shall commence on the 1st of March ensuing, unless in the act itself another day be mentioned for its commencement, was not in force till the 15th of January*, 1790, *I suppose, that under the 22d sec. of the act in this book (pa.* 23*) concerning election of members of Assembly, this and all the following acts of* 1789, *in this vol. commenced from the passing thereof.*

† *See Acts of* 1795, *ch.* 3.

CHAP. XLII.

An Act authorising the Governor of this Commonwealth, to convey certain Land to the United States, for the purpose of building a Light-House.

[Passed the 13th of November, 1789.†]

The Governor to convey land at Cape Henry to the United States.

I. BE *it enacted by the General Assembly*, That it shall and may be lawful for the Governor of this Commonwealth, and he is hereby fully authorised, for and in behalf of this Commonwealth, by proper deeds and instruments in writing, under his hand and the Seal of this Commonwealth, to convey, transfer, assign, and make over unto the United States in Congress assembled, for the use of the said United States, all interest in, and right and title to, as well as all the jurisdiction which this Commonwealth possesses, over so much of the public lands, not exceeding two acres, situate, lying and being in the County of *Princess Anne*, at a place commonly called the head land of *Cape Henry*, as shall be sufficient to erect a Light-House, subject to the terms and conditions following; that is to say, that a Light-House shall be erected upon the said land, and that all charges and expenses of building, and re-building, when necessary, and keeping in good repair, the said Light-House, together with the salaries, wages or hire of the person or persons appointed by the President of the United States for the superintendance and care of the same, and all the necessary supplies, with which a Light-House ought to be furnished, shall be defrayed out of the Treasury of the United States: If a Light-House shall not be erected within the space of seven years, after the Cession of the said two acres of land, by this Commonwealth to the United States in Congress assembled; or if at any time thereafter, the said Light-House shall be suffered to fall into decay, or be rendered useless, as to the purposes for which it is to be erected, and so continue for the aforesaid period of seven years, then and in those cases, the property in the soil and Jurisdiction, over the territory hereby directed to be vested in the United States in Congress assembled, shall revert to this Commonwealth, and be considered as the property, and subject to the jurisdiction of the same, in like manner, as if this Act had never been made.

United States to build thereon a Light-House; to support, repair, and re-build it when necessary.

If not built within seven years, or rendered useless for the same period, the land to revert to the Commonwealth.

The right of the state to certain materials lying thereon, and of its citizens to fish on the shores thereof, not to be affected.

II. *PROVIDED*, That nothing in this Act contained, shall be construed to affect the right of this State to any materials heretofore placed at or near *Cape Henry*, for the purpose of erecting a Light-House; and that the Citizens of this Commonwealth shall not, in consequence of this Cession, be debarred from the privileges they now enjoy, of hauling their seines and fishing on the shores of the said land so ceded by this Act, to the United States, for the purpose of building a Light-House.

CHAP. XLIII.

An Act concerning Homicide by Misfortune.‡

[Passed the 18th of November, 1789.]

Any person killing another without felony, to be acquitted.

BE *it enacted by the General Assembly*, That in case it be found by the Country, that any man by misfortune, or in his own defence, or in other manner without felony, did kill another, he shall be acquitted.

CHAP. XLIV.

An Act allowing a Bill of Exceptions to be Sealed.

[Passed the 18th of November, 1789.‖]

Bills of exceptions to be sealed.

BE *it enacted by the General Assembly*, That when one impleaded before any Court, and in any cause, where Appeal, Writ of Error, or Supersedeas lies to a higher Court, doth alledge an Exception, praying that the Justices will allow it, if they will not allow it, and he that alledgeth the Exception, do write the same Exception, and require that the Justices will put their seals in testimony thereof, the Justices, or the greater part of them present shall so do; and if such higher Court upon complaint made of the said Justices, cause the Record to come before them, and the same Exception be not found in the roll, and the Plaintiff shew the Exception written, with the seals of the Jus-

If exceptions be omitted in the record, Justices to be summoned

† 1789, *ch.* 5. ‡ *Commenced as last; see acts* 1789, *ch.* 9. ‖ 1789, *ch.* 12.

tices put to it, the Juſtices ſhall be commanded, that they appear at a certain day, either to confeſs or deny their ſeals; and if the Juſtices cannot deny their ſeals, they ſhall proceed to judgment according to the ſame Exception, as it ought to be allowed or diſallowed.

to confeſs or deny their ſeals.

CHAP. XLV.

An Act againſt thoſe who counterfeit Letters or Privy Tokens, to receive Money or Goods in other Mens Names.

[Paſſed the 18th of November, 1789.†]

Preamble.

I. WHEREAS many evil diſpoſed perſons, have falſely and deceitfully contrived, deviſed and imagined Privy Tokens and Counterfeit Letters in other mens names, unto divers perſons, their ſpecial friends and acquaintances, for the obtaining of money, goods and chattels of the ſame perſons, their friends and acquaintances, by colour whereof the ſaid evil diſpoſed perſons, have deceitfully and unlawfully obtained and gotten great ſubſtance of money, goods and chattels into their hands and poſſeſſion, contrary to right and conſcience:

Any perſon obtaining another's money or goods by falſe tokens, to be impriſoned and ſet upon the pillory.

II. *BE it enacted by the General Aſſembly*, That if any perſon or perſons, ſhall falſely and deceitfully obtain or get into his or their hands or poſſeſſion, any money, goods or chattels of any other perſon or perſons, by colour and means of any ſuch falſe Token, or Counterfeit Letter, made in any other man's name as is aforeſaid; every ſuch perſon and perſons ſo offending, and being thereof lawfully convicted in the Court of the Diſtrict, in which ſuch offence ſhall have been committed, ſhall have and ſuffer ſuch correction and puniſhment, by impriſonment of his body, without bail or mainprize, for any ſpace, not exceeding one year, and ſetting upon the pillory, as ſhall be unto him, or them, limited, adjudged or appointed by the ſaid Court.

Perſon injured, not to loſe his remedy by action.

III. SAVING to the party grieved by ſuch deceit, ſuch remedy by way of action or otherwiſe, of and for the ſame money, goods and chattels ſo obtained, as he might have had, if this Act had never been made; any thing in the ſame contained to the contrary, in any wiſe notwithſtanding.

CHAP. XLVI.

An Act againſt the embezzling of Records.‡

[Paſſed the 19th of November, 1789.‖]

Felony to ſteal or procure to be ſtolen any record, writ, or proceſs, whereby any judgment ſhall be reverſed.

BE *it enacted by the General Aſſembly*, That if any Record, or parcel of the ſame, Writ, Return, Panel, Proceſs, or Warrant of Attorney, in any Court within this Commonwealth be willingly ſtolen, taken away, withdrawn, or avoided, by any Clerk, or by any other perſon, becauſe whereof, any judgment ſhall be reverſed, ſuch ſtealer, taker away, withdrawer, or avoider, their procurers, counſellors and abettors, being thereof indicted, and duly convicted, by their own confeſſion, or by inqueſt to be taken of lawful men, ſhall be judged for Felons, and ſhall incur the pain of felony.

CHAP. XLVII.

An Act concerning the Benefit of Clergy.§

[Paſſed the 27th of November, 1789.¶]

Benefit of Clergy, in what offences, not allowed to principals in the firſt degree.

I. BE *it enacted and declared by the General Aſſembly*, That the Benefit of Clergy ſhall not be allowed to principals in the firſt degree, Firſt, in Murder; ſecondly, or in Burglary; thirdly, or in Arſon at Common Law; fourthly, or for the wilful burning of any Court-houſe, or County or Public Priſon, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the felonious taking of any goods or chattels out of any Church, Chapel, or Meeting-Houſe belonging thereto; ſixthly, or for the robbing of any perſon or perſons in their Dwelling-houſes or Dwelling-place, the Owner or Dweller in the ſame Houſe or Dwelling-place, his wife, his children, or ſervants, then being within, and put in fear and dread by the ſame; ſeventh-

† 1789, *ch.* 15. ‡ *Commenced as laſt*; *ſee* 1789, *ch.* 9. ‖ 1789, *ch.* 16.
§ *Commenced as above.* ¶ 1789, *ch.* 22.

ly, or for the robbing of any person or persons in or near about any highway; eighthly, or for the felonious stealing of any Horse, Gelding, or Mare; ninthly, or for the felonious breaking of any Dwelling-house by day, and taking away of any goods or chattels, being in any Dwelling-house, the owner or any person being therein and put in fear.

Or in the second degree.

II. THE Benefit of Clergy shall not be allowed to principals in the second degree, in any of the cases abovementioned.

In what offences, not allowed to accessaries before the fact.

III. IT shall not be allowed to accessaries before the fact, first, in Murder; secondly, or Burglary; thirdly, or Arson at common Law; fourthly, or for the wilful burning of any Court-house, or County, or Public Prison, or of the Office of the Clerk of any Court within this Commonwealth; fifthly, or for the robbing of any person or persons in their Dwelling-houses or Dwelling-places, the Owner or Dweller in the same Dwelling-house or Dwelling-place, his wife, his children or servants then being within and put in fear and dread by the same; sixthly, or for the robbing of any person or persons in or near about any Highway.

When allowed, unless expressly taken away by Act of Assembly.

IV. IT shall be allowed to principals and accessaries in all offences which would otherwise be without Clergy, whether the same be newly created by any Act of the General Assembly, or exist under the common Law, unless it be taken away by the express words of some Act of Assembly.

How often.

V. IT shall not be allowed to any person more than once, except in the following case, that is to say: Whensoever any person shall have been admitted to the Benefit of Clergy, such admission shall not operate as a pardon or discharge for other offences of a Clergyable nature, committed by him before that admission to the Benefit of Clergy, but he shall be again allowed the Benefit of Clergy for every other offence of a Clergyable nature committed by him before that admission to the Benefit of Clergy, and shall be burned in the hand for every such offence.

VI. BUT if any person who shall have been once admitted to the Benefit of Clergy, shall before that admission have committed any offence, in which the Benefit of Clergy is not allowed by Law, or shall after that admission commit any offence in which the Benefit of Clergy is even allowed by Law, he shall suffer death without the Benefit of Clergy.

Females entitled to it, in like manner as males.

VII. A FEMALE shall in all cases receive the same judgment, and stand in the same condition with respect to the Benefit of Clergy, as a Male.

And slaves as free Negroes or Mulattoes.

VIII. A SLAVE shall in all cases receive the same judgment, and stand in the same condition, with respect to the Benefit of Clergy, as a free Negro or Mulatto.

Not taken away by this Act, when expressly allowed by any other, or allowed, when expressly taken away.

IX. NOTHING in this Act contained, shall be construed to take away the Benefit of Clergy, from any offence, in which it is now allowed by any Act of the General Assembly, or to allow it in any offence, from which it is now expressly taken away, by any act of the General Assembly.

CHAP. XLVIII.

An Act against such as shall procure or commit wilful Perjury, and against Embracery.†

[Passed the 1st of December, 1789.‡]

Suborners of witnesses, how punished.

I. BE *it enacted by the General Assembly*, That all and every person and persons who shall unlawfully and corruptly procure any witness or witnesses by letters, rewards, promises, or by any other sinister and unlawful labour or means whatsoever, to commit any wilful and corrupt Perjury in any matter or cause whatsoever, now depending, or which hereafter shall depend in suit and variance by any writ, action, bill, complaint, or information in any wise touching or concerning any lands, tenements, or hereditaments, or any goods, chattels, debts or damages in any of the Courts of this Commonwealth; or shall likewise unlawfully and corruptly procure or suborn any witness or witnesses which shall be sworn to testify *in perpetuam rei memoriam*, or any criminal prosecution, or in any examination or controversy before a Justice or Justices of the Peace, or before any Commissioners appointed to take depositions, that then every such offender or offenders, shall for his, her, or their said offence, being thereof lawfully convicted, be adjudged to pay a fine not exceeding two hun-

† *Commenced as last.* ‡ 1789, *ch.* 26.

dred pounds, and to ſuffer impriſonment for the ſpace of one year, without bail or mainprize.

II. *AND be it further enacted*, That if any perſon or perſons, either by the ſubornation, unlawful procurement, ſiniſter perſuaſion, or means of any other, or by their own act, conſent or agreement, wilfully and corruptly commit any manner of wilful Perjury by his or their depoſition, in any of the Courts of this Commonwealth, or before any Juſtice or Juſtices of the Peace, or before any Commiſſioners appointed to take depoſitions, or being examined *in perpetuam rei memoriam*, that then every perſon and perſons ſo offending, and being thereof duly convicted, ſhall for his or their ſaid offence be adjudged to pay a fine not exceeding one hundred pounds, and to ſuffer impriſonment by the ſpace of ſix months without bail or mainprize, and the oath of ſuch perſon or perſons ſo offending in any of the caſes of perjury or ſubornation of perjury in this act mentioned, from thenceforth ſhall not be received in any Court within this Commonwealth, until ſuch time as the judgment given againſt ſuch perſon or perſons ſhall be reverſed.

Perſons guilty of perjury, how puniſhed.

Their oaths not to be received in any court.

III. IF any Juror upon any Inqueſt whatſoever ſhall take any thing by himſelf, or another to give his verdict, and ſhall be thereof convicted, ſuch Juror ſhall not thereafter be put on any Jury, and ſhall pay ten times as much, as he ſhall have taken; whereof one half ſhall go to him, who will ſue for the ſame, and the other half to the Commonwealth.

Penalty on a juror for taking any thing for giving his verdict.

IV. EVERY Embracer, who ſhall procure any Juror to take gain or profit, ſhall be puniſhed by fine not exceeding two hundred pounds, and impriſonment not exceeding one year.

Embracers, how puniſhed.

CHAP. XLIX.

An Act to provide againſt the Appropriation of Money, by Reſolution of the Two Houſes of Aſſembly.

[Paſſed the 3d of December, 1789.†]

I. WHEREAS in the paſſing of thoſe Legiſlative Acts, which are known under the name of Laws as diſtinguiſhed from other Acts, which are commonly called Reſolutions, certain forms and ſolemnities have been eſtabliſhed for the purpoſe of obtaining that deliberation which the matter of Laws generally requires; and it hath been the practice of the General Aſſembly, to grant large ſums of money by Reſolutions, which are confirmed on a ſingle reading:

Preamble.

II. *BE it enacted by the General Aſſembly*, That no ſum of money ſhall be voted for any uſe whatſoever by a Reſolution only, except where, by ſome previous Law, a ſum of money ſhall have been appropriated, and by ſuch Reſolution, the whole or a part thereof may be particularly applied in purſuance of the ſaid Law.

No money to be voted by reſolution, unleſs there hath been an appropriation by law.

CHAP. L.

An Act for the Ceſſion of Ten Miles Square, or any leſſer Quantity of Territory within this State, to the United States, in Congreſs aſſembled, for the permanent Seat of the General Government.

[Paſſed the 3d of December, 1789.‡]

I. WHEREAS the equal and common benefits reſulting from the adminiſtration of the General Government will be beſt diffuſed, and its operations become more prompt and certain, by eſtabliſhing ſuch a ſituation for the Seat of the ſaid Government, as will be moſt central and convenient to the Citizens of the United States at large, having regard as well to population, extent of territory, and a free navigation to the *Atlantic* Ocean, through the *Cheſapeake* bay, as to the moſt direct and ready communication with our Fellow-Citizens in the Weſtern Frontier: And whereas it appears to this Aſſembly, that a ſituation combining all the conſiderations and advantages before recited, may be had on the banks of the river *Potowmac*, above tide water, in a country rich and fertile in ſoil, healthy and ſalubrious in climate, and abounding in all the neceſſaries and conveniences of life, where, in a location of ten

Preamble.

† 1789, *ch.* 24. ‡ 1789, *ch.* 32.

miles ſquare, if the wiſdom of Congreſs ſhall ſo direct, the States of *Pennſylvania*, *Maryland* and *Virginia* may participate in ſuch location:

Tract of country within this ſtate, ceded to the United States for the ſeat of the general government.

II. *BE it therefore enacted by the General Aſſembly*, That a tract of country, not exceeding ten miles ſquare, or any leſſer quantity, to be located within the limits of this State, and in any part thereof as Congreſs may by Law direct, ſhall be, and the ſame is hereby for ever ceded and relinquiſhed to the Congreſs and Government of the United States, in full and abſolute right, and excluſive juriſdiction as well of ſoil, as of perſons, reſiding or to reſide thereon, purſuant to the tenor and effect of the eighth ſection of the firſt article of the Conſtitution of Government of the United States.

Reſervation of the rights of individuals to the ſoil.

III. *PROVIDED*, That nothing herein contained, ſhall be conſtrued to veſt in the United States, any right of property in the ſoil, or to affect the rights of individuals therein, otherwiſe than the ſame ſhall or may be transferred by ſuch individuals to the United States.

When the juriſdiction of the laws of this Commonwealth over the ſame, ſhall ceaſe.

IV. *AND provided alſo*, That the juriſdiction of the Laws of this Commonwealth, over the perſons and property of individuals reſiding within the limits of the Ceſſion aforeſaid, ſhall not ceaſe or determine, until Congreſs, having accepted the ſaid Ceſſion, ſhall by Law provide for the Government thereof, under their juriſdiction, in manner provided by the article of the Conſtitution before recited.

CHAP. LI.

An Act for the Relief of Creditors againſt fraudulent Deviſes.

[Paſſed the 17th of December, 1789.†]

Preamble.

I. WHEREAS it is not reaſonable or juſt, that by the practice or contrivance of any Debtors, their Creditors ſhould be defrauded of their juſt debts, and nevertheleſs it hath often ſo happened, that where ſeveral perſons, having by Bonds or other Specialties bound themſelves and their Heirs, have afterwards died, ſeized in fee-ſimple of, and in Meſſuages, Lands, Tenements, and Hereditaments, or having power or authority to diſpoſe of, or charge the ſame by their Wills or Teſtaments, have to the defrauding of ſuch their Creditors by their laſt Wills or Teſtaments deviſed the ſame, or diſpoſed thereof in ſuch manner as ſuch Creditors have loſt their ſaid debts: For remedying of which, and for the maintenance of juſt and upright dealing,

Deviſes of lands, &c. void as to creditors.

II. *BE it enacted by the General Aſſembly*, That all Wills and Teſtaments, limitations, diſpoſitions or appointments, of, or concerning any Meſſuages, Lands, Tenements or Hereditaments, or of any rent, profit, term or charge out of the ſame, whereof any perſon or perſons, at the time of his, her, or their deceaſe, ſhall be ſeized in fee-ſimple in poſſeſſion, reverſion, or remainder, or have power to diſpoſe of the ſame by his, her, or their laſt Wills or Teſtaments, ſhall be deemed and taken (only as againſt ſuch Creditor or Creditors as aforeſaid, his, her and their Heirs, Succeſſors, Executors, Adminiſtrators and Aſſigns, and every of them) to be fraudulent, and clearly, abſolutely and utterly void, fruſtrate and of none effect; any pretence, colour, feigned or preſumed conſideration, or any other matter or thing to the contrary, notwithſtanding.

Who may ſue heirs and deviſees jointly.

III. AND for the means that ſuch Creditors may be enabled to recover their ſaid debts, *Be it further enacted*, that in the caſes beforementioned, every ſuch Creditor ſhall and may have and maintain, his, her and their action, and actions of debt, upon his, her, and their ſaid Bonds and Specialties, againſt the Heir and Heirs at Law of ſuch Obligor or Obligors, and ſuch Deviſee and Deviſees, jointly by virtue of this Act; and ſuch Deviſee or Deviſees, ſhall be liable and chargeable for a falſe plea by him or them pleaded, in the ſame manner as any Heir ſhould have been for any falſe plea by him pleaded, or for not confeſſing the Lands or Tenements to him deſcended.

Exception of deviſees, &c. to pay juſt debts, or portions in purſuance of any marriage contract.

IV. *PROVIDED always, and be it enacted by the authority aforeſaid*, That where there hath been, or ſhall be any limitation or appointment, deviſe or diſpoſition, of, or concerning any Meſſuages, Lands, Tenements or Hereditaments, for the raiſing or payment of any real and juſt debt or debts, or any portion or portions, ſum or ſums of money, for any child or children of any perſon; other than the Heir at Law, according to, or in purſuance of any marriage

† 1789, *ch.* 39.

contract or agreement in writing, *bona fide* made before such marriage, the same and every of them shall be in full force; and the same Messuages, Lands, Tenements and Hereditaments, shall and may be holden and enjoyed by every such person or persons, his, her, and their Heirs, Executors, Administrators, and Assigns, for whom the said limitation, appointment, devise or disposition was made, and by his, her, and their Trustee or Trustees, his, her, and their Heirs, Executors, Administrators, and Assigns, for such estate or interest as shall be so limited or appointed, devised or disposed, until such debt or debts, portion or portions, shall be raised, paid and satisfied; any thing in this Act contained to the contrary notwithstanding.

V. AND whereas several persons being Heirs at Law, to avoid the payment of such just debts, as in regard of the Lands, Tenements, and Hereditaments, descending to them, they have by law been liable to pay, have sold, aliened, or made over such Lands, Tenements, or Hereditaments, before any process was or could be issued out against them:

In what manner an heir is answerable where he alienes the lands descended.

VI. *BE it further enacted*, That in all cases where any Heir at Law shall be liable to pay the debt of his Ancestor in regard of any Lands, Tenements, or Hereditaments, descending to him, and shall sell, aliene or make over the same, before any action brought, or process sued out against him, such Heir at Law shall be answerable for such debt or debts, in an action or actions of debt, to the value of the said Land so by him sold, aliened, or made over; in which cases all Creditors shall be preferred, as in actions against Executors and Administrators, and such Execution shall be taken out upon any judgment or judgments so obtained against such Heir, to the value of the said Land, as if the same were his own proper debt or debts, saving that the Lands, Tenements, and Hereditaments, *bona fide* aliened before the action brought, shall not be liable to such Execution.

Heir may plead riens per discent.

VII. *PROVIDED always, and be it further enacted*, That where any action of debt upon any specialty is brought against any Heir, he may plead *riens per discent* at the time of the original writ brought, or the bill filed against him, any thing herein contained, to the contrary notwithstanding; and the Plaintiff in such action may reply that he had Lands, Tenements, or Hereditaments from his Ancestor before the original writ brought, or bill filed; and if upon issue joined thereupon, it be found for the Plaintiff, the Jury shall enquire of the value of the Lands, Tenements or Hereditaments so descended, and thereupon Judgment shall be given, and Execution shall be awarded as aforesaid; but if Judgment be given against such Heir by confession of the action, without confessing the assets descended, or upon demurrer or *nihil dicit*, it shall be for the debt and damages, without any writ to enquire of the Lands, Tenements, or Hereditaments, so descended.

Jury to enquire of the value of the lands if found against him; such enquiry unnecessary where there is judgment by confession, or nihil dicit.

Devisees liable as heirs, in case of alienation of the land.

VIII. *PROVIDED also, and be it further enacted*, That all and every devisee and devisees made liable by this Act, shall be liable and chargeable in the same manner as the Heir at Law by force of this Act, notwithstanding the Lands, Tenements and Hereditaments to him or them devised, shall be aliened before the action brought.

CHAP. LII.

An Act concerning Awards.

[Passed the 17th of December, 1789.‡]

A submission to arbitration may be made a rule of any Court of Record.

I. BE *it enacted by the General Assembly*, That it shall and may be lawful for all Merchants, and Traders, and others desiring to end any controversy, suit or quarrel, for which there is no other remedy but by personal action or suit in equity, by arbitration, to agree, that their submission of the suit to the award or umpirage of any person or persons should be made a rule of any Court of Record which the parties shall choose, and to insert such their agreement in their submission or the condition of the bond or promise, whereby they oblige themselves, respectively, to submit to the award or umpirage of any person or persons; which agreement being so made and inserted in their submission or promise, or condition of their respective bonds, shall or may, upon producing an affidavit thereof made by the witnesses thereunto, or any one of them, in the

‡ 1789, *ch.* 46.

Court of which the ſame is agreed to be made a rule, and reading and filing the ſaid affidavit in Court, be entered in the proceedings of ſuch Court, and a rule ſhall be made thereupon by the ſaid Court, that the parties ſhall ſubmit to and finally be concluded by the arbitration or umpirage, which ſhall be made concerning them by the arbitration or umpire purſuant to ſuch ſubmiſſion.

Awards to be entered as the judgment of ſuch court, and execution iſſued thereon.

II. AND the award made in purſuance of ſuch ſubmiſſion may be entered up as the judgment or decree of the Court, and the ſame execution or proceſs may iſſue thereupon as on other judgments or decrees, and the Court ſhall not invalidate ſuch award, arbitrament, or umpirage, unleſs it be made appear to ſuch Court, that ſuch award, arbitrament, or umpirage was procured by corruption or other undue means, or that there was evident partiality or miſbehaviour in the arbitrators or umpires, or any of them. And any award, arbitrament, or umpirage procured by corruption or other undue means, or where there ſhall have been ſuch evident partiality or miſbehaviour as aforeſaid, ſhall be deemed and judged void and of none effect, and accordingly ſet aſide by the Court in which the ſubmiſſion ſhall be made, ſo as complaint of ſuch corruption or undue means, or evident partiality or miſbehaviour as aforeſaid, be made before the end of the ſecond Court of quarter Seſſions in the caſe of a County Court, or at the end of the ſecond term of any other Court next after ſuch award, arbitrament, or umpirage be made and returned to ſuch Court.

For what conduct of the arbitrators or umpire, ſuch award may be ſet aſide.

When complaint muſt be made thereof.

Not to affect the power of courts of equity over awards.

III. *PROVIDED nevertheleſs*, That nothing herein contained, ſhall be conſtrued to take away from Courts of Equity their power over awards, arbitraments, or umpirages.

CHAP. LIII.

An Act concerning the Erection of the Diſtrict of Kentucky into an Independent State

[Paſſed the 18th of December, 1789.†]

Preamble.

I. WHEREAS it is repreſented to this preſent General Aſſembly, that the Act of laſt Seſſion, intituled, "*An Act concerning the Erection of the Diſtrict of* Kentucky *into an Independent State*," which contains terms materially different from thoſe of the Act of *October* Seſſion, one thouſand ſeven hundred and eighty-five, are found incompatible with the real views of this Commonwealth, as well as injurious to the good people of the ſaid Diſtrict:

Repreſentatives to compoſe a convention, to be elected in the Kentucky diſtrict.

BE it enacted by the General Aſſembly, That in the month of *May* next, on the reſpective Court days of the Counties within the ſaid Diſtrict, and at the reſpective places of holding Courts therein, Repreſentatives to continue in appointment for one year, and to compoſe a Convention with the Powers, and for the purpoſes herein after mentioned, ſhall be elected by the free male inhabitants of each County above the age of twenty-one years, in like manner as Delegates to the General Aſſembly have been elected within ſaid Diſtrict, in the proportions following: In the County of *Jefferſon* ſhall be elected five Repreſentatives; in the County of *Nelſon* five Repreſentatives; in the County of *Mercer* five Repreſentatives; in the County of *Lincoln* five Repreſentatives; in the County of *Madiſon* five Repreſentatives; in the County of *Fayette* five Repreſentatives; in the County of *Woodford* five Repreſentatives; in the County of *Bourbon* five Repreſentatives, and in the County of *Maſon* five Repreſentatives: *Provided*, that no free male inhabitant above the age of twenty-one years ſhall vote in any other County, except that in which he reſides, and that no perſon ſhall be capable of being elected, unleſs he has been a reſident within the ſaid Diſtrict at leaſt one year.

Qualification of the electors.

Qualification of the repreſentatives.

Elections to be continued for five days.

II. THAT full opportunity may be given to the good people of exerciſing their right of ſuffrage on an occaſion ſo intereſting to them, each of the Officers holding ſuch Elections, ſhall continue the ſame from day to day, paſſing over *Sunday*, for five days including the firſt day, and ſhall cauſe this Act to be read on each day immediately preceding the opening of the Election, at the door of the Court-houſe, or other convenient place. Each of the ſaid Officers ſhall deliver to each perſon duly elected a Repreſentative, a certificate of his Election, and ſhall tranſmit a general return to the Clerk of the Supreme Court, to be by him laid before the Convention.

Duty of the ſheriffs conducting them.

Penalty on them for

III. FOR every neglect of any of the duties hereby enjoined on ſuch Offi-

† 1789, *ch.* 14.

cer, he shall forfeit one hundred pounds, to be recovered by action of debt, by any person suing for the same. neglect.

IV. THE said Convention shall be held at *Danville* on the twenty-sixth day of *July* next, and shall and may proceed, after choosing a President and other proper Officers, and settling the proper rules of proceeding, to consider and determine whether it be expedient for, and the will of the good people of the said District, that the same be erected into an Independent State, on the terms and conditions following: The convention to determine on the expediency of erecting the said district into an independent state, on certain conditions.

V. *First*—THAT the Boundary between the proposed State and *Virginia*, shall remain the same as at present separates the District from the residue of this Commonwealth. Boundary between the proposed state and this Commonwealth.

VI. *Second*—THAT the proposed State shall take upon itself a just proportion of the debt of the United States, and the payment of all the Certificates granted on account of the several expeditions carried on from the *Kentucky* District against the Indians, since the first day of *January*, one thousand seven hundred and eighty-five. The proposed state to pay part of the debt of the United States and of this Commonwealth.

VII. *Third*—THAT all private rights and interests of Lands within the said District, derived from the Laws of *Virginia*, prior to such separation, shall remain valid and secure under the Laws of the proposed State, and shall be determined by the Laws now existing in this State. Rights to lands derived from this Commonwealth to be secured.

VIII. *Fourth*—THAT the Lands within the proposed State of non-resident proprietors, shall not in any case be taxed higher than the Lands of residents, at any time prior to the admission of the proposed State to a vote by its Delegates in Congress, where such non-residents reside out of the United States; nor at any time either before or after such admission, where such non-residents reside within this Commonwealth, within which this stipulation shall be reciprocal; or where such non-residents reside within any other of the United States, which shall declare the same to be reciprocal within its limits; nor shall a neglect of cultivation or improvement of any Land within either the proposed State or this Commonwealth, belonging to non-residents, citizens of the other, subject such non-residents to forfeiture or other penalty within the term of six years, after the admission of the said State into the Fœderal Union. How lands of non resident proprietors are to be taxed, when forfeited for neglect of cultivation.

IX. *Fifth*—THAT no grant of Land or Land Warrant to be issued by the proposed State, shall interfere with any Warrant heretofore issued from the Land-Office of *Virginia*, which shall be located on Land within said District now liable thereto, on or before the first day of *September*, one thousand seven hundred and ninety-one. Grants of land by this Commonwealth and the proposed state not to interfere.

X. *Sixth*—THAT the unlocated Lands within the said District, which stand appropriated to individuals, or description of individuals, by the Laws of this Commonwealth, for military or other services, shall be exempt from the disposition of the proposed State, and shall remain subject to be disposed of by the Commonwealth of *Virginia*, according to such appropriation, until the first day of *May*, one thousand seven hundred and ninety-two, and no longer; thereafter the residue of all Lands remaining within the limits of the said District, shall be subject to the disposition of the proposed State. Unlocated lands appropriated to individuals for military services to be disposed of by this Commonwealth.

XI. *Seventh*—THAT the use and navigation of the river *Ohio*, so far as the Territory of the proposed State, or the Territory which shall remain within the limits of this Commonwealth lies thereon, shall be free and common to the Citizens of the United States, and the respective Jurisdictions of this Commonwealth, and of the proposed State, on the river as aforesaid, shall be concurrent only with the States which may possess the opposite shores of the said river. Navigation of the Ohio to be free and common.

XII. *Eighth*—THAT in case any complaint or dispute shall at any time arise between the Commonwealth of *Virginia* and the said District, after it shall be an Independent State, concerning the meaning or execution of the foregoing articles, the same shall be determined by six Commissioners, of whom two shall be chosen by each of the parties, and the remainder by the Commissioners so first appointed. Commissioners to settle disputes which may arise respecting the foregoing articles.

XIII. *PROVIDED, however*, That five members assembled, shall be a sufficient number to adjourn from day to day, and to issue writs for supplying vacancies which may happen from deaths, resignations, or refusals to act; a majority of the whole shall be a sufficient number to choose a President, settle the proper rules of proceeding, authorise any number to summon a convention during a recess, and to act in all other instances where a greater number is not expressly required. Two thirds of the whole shall be a sufficient number to determine on the expediency of forming the said District into an Independ- What number of members necessary to proceed to business, and to determine the question concerning the erection of the said district into an independent state.

ent State, on the aforesaid terms and conditions, *Provided* that a majority of the whole number to be elected concur therein.

When the authority of this Commonwealth over the said district shall cease.

XIV. *AND be it further enacted*, That if the said Convention shall approve of the erection of the said District into an Independent State on the foregoing terms and conditions, they shall and may proceed to fix a day, posterior to the first day of *November*, one thousand seven hundred and ninety-one, on which the authority of this Commonwealth, and of its Laws under the exceptions aforesaid, shall cease and determine forever over the proposed State, and the said Articles become a solemn Compact mutually binding on the parties, and unalterable by either, without the consent of the other.

The assent of the general government to be obtained.

XV. *PROVIDED, however*, That prior to the first day of *November*, one thousand seven hundred and ninety-one, the General Government of the United States shall assent to the erection of the said District into an Independent State, shall release this Commonwealth from all its Fœderal obligations arising from the said District, as being part thereof, and shall agree that the proposed State shall immediately after the day to be fixed as aforesaid, posterior to the first day of *November*, one thousand seven hundred and ninety-one, or at some convenient time future thereto, be admitted into the Fœderal Union.

The convention to provide for the establishment of a constitution of government for the proposed state.

XVI. AND, to the end, that no period of anarchy may happen to the good people of the proposed State, it is to be understood that the said Convention shall have authority to take the necessary provisional measures for the election and meeting of a Convention, at some time prior to the day fixed for the determination of the authority of this Commonwealth, and of its Laws over said District, and posterior to the first day of *November*, one thousand seven hundred and ninety-one, aforesaid, with full power and authority to frame and establish a Fundamental Constitution of Government for the proposed State, and to declare what Laws shall be in force therein, until the same shall be abrogated or altered by the Legislative authority acting under the Constitution so to be framed and established.

Privileges of the electors, and of the representatives.

XVII. *AND be it further enacted*, That the electors, in going to, continuing at, and returning from an election of Members to the said Convention, shall be entitled to the same privileges from arrest, as are by Law allowed at an election of Members to the General Assembly, and each person returned to serve as a Member in said Convention, shall be entitled to the same privileges from arrest in going to, during his attendance on, and returning from said Convention, as are by Law allowed to the Members of the General Assembly.

The Executive to transmit this act to this Commonwealth's Representatives in Congress.

XVIII. THIS Act shall be transmitted by the Executive, to the Representatives of this Commonwealth in Congress, who are hereby instructed to use their endeavors to obtain from Congress a speedy Act to the effect above specified.

1790. *General Assembly*, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 18th day of *October*, in the Year of our Lord, 1790.

CHAP. LIV.

An Act to regulate the inspection of Hemp.

[Passed the 24th of December, 1790.†]

Preamble.

I. WHEREAS it is represented to this present General Assembly, that great loss and inconvenience hath been sustained on account of the present mode established by Law for the Inspection of Hemp, particularly in permitting the Inspector to clean that, which may be refused by him: For remedy whereof, *Be it enacted*, That from and after the passing of this Act, Public Warehouses for the reception of Hemp, shall be kept at the places herein after mentioned, that is to say, at or near the City of *Richmond* and Towns of *Alexandria*, *Fredericksburg*, *Manchester*, in that part of the Town of *Petersburg* included in the county of *Dinwiddie*, and at the Great Falls in the county of *Loudoun*; and it shall and may be lawful for the Justices of the Courts of such Counties, wherein such Inspections are established; and they are hereby

Inspections of hemp to be established at certain places.

Warehouses to be provided.

† 1790, *ch.* 44.

required, upon the receipt of this Act, to provide good and ſufficient Warehouſes for the receipt of all Hemp which may be brought to the ſame; and the ſaid Courts ſhall, and they are hereby required and empowered to agree with ſome perſon or perſons, to erect or rent good and ſufficient Warehouſes for the reception and preſervation of all Hemp which may be brought to the ſame, and ſhall certify the charges thereof to the Treaſurer of this State, who is hereby directed to pay the ſame out of the aggregate fund.

Inſpectors, how to be appointed.

II. *AND be it further enacted*, That the Courts of the Counties wherein any ſuch Inſpection for the receipt of Hemp ſhall be eſtabliſhed by this act, are hereby required to appoint a fit and able perſon, not being concerned in mercantile or rope-making buſineſs, to have the care and charge of the ſaid Warehouſe, whoſe duty it ſhall be carefully to inſpect and examine all Hemp which ſhall be brought to his Warehouſe, ſeparating that which ſhall be ſtrong, dry, and ſound, from that which may be unſound and unfit for exportation, and when ſo ſeparated, ſhall be diſtinguiſhed in the note by him given, in manner following, that is to ſay, all that which ſhall appear clean, dry, and well conditioned, ſhall be termed firſt quality; and that which may appear dry, ſtrong and well conditioned, although not perfectly clean, ſhall be termed ſecond or third rate, according to the cleanneſs of the ſame; but if it ſhall appear on the offering of any hemp for inſpection, that it contains ſo great a quantity of traſh or unſound, ſo as to render it unfit for manufacturing or exportation, the Inſpector ſhall not give his note for the ſame, but the Owner ſhall be at liberty to diſpoſe of it as he may think proper.

Their duty.

Quality of the hemp to be ſpecified in the note.

Allowance to the inſpectors.

III. *AND be it further enacted*, That the Inſpector at any of the warehouſes, by this act eſtabliſhed, ſhall and may demand and receive for his ſervices as Inſpector, for every groſs ton, the ſum of fifteen ſhillings, and for every ton by him refuſed, the ſum of ten ſhillings, and ſo in proportion for any leſſer quantity, to be paid down to the Inſpector on delivering the note, or by the perſon whoſe hemp may be refuſed, (as the caſe may be) one half of which ſum ſhall be for the ſervices of the Inſpector, and the other one half ſo received, ſhall be paid to the Treaſurer of this Commonwealth, or to the Owner of the warehouſe, (as the caſe may be) quarter-yearly, under the penalty of forfeiting to the Commonwealth, or to the Owner of ſuch warehouſe, three hundred pounds, recoverable on motion before any Court of Record within this Commonwealth, giving ten days previous notice of ſuch motion.

Hemp to be repriſed in bale boxes.

IV. *AND be it further enacted*, That all hemp, ſound and merchantable, diſtinguiſhed as above directed, ſhall by the Inſpector be re-prized in bale boxes three feet two inches long in the clear, three feet deep, one foot eight inches at bottom, and two feet wide at the top, with a label annexed thereto, ſtamped with the quality and weight of each bale, and the Owner's name, which quality, weight, and Owner's name ſhall be entered in a book kept for that purpoſe, as well as the weight and Owner's name, of any hemp by him refuſed; and he is hereby required to give a certificate for all hemp by him paſſed in form following, viz.

Form of certificate for hemp inſpected and paſſed.

I A. B. do certify, that C D. *hath depoſited tons or pounds of hemp, (as the caſe may be) of firſt, ſecond or third rate. (as the caſe may be) paſſed inſpection at the Warehouſe of , of which I am Inſpector. Witneſs my hand, this day of , in the year.*

Oaths of Inſpectors.

V. *AND be it further enacted*, That the Inſpectors appointed by this Act, previous to the execution of their office, ſhall take the following oath or affirmation, (as the caſe may be) viz.

I A. B. do ſolemnly ſwear or affirm (as the caſe may be) diligently to examine and receive all hemp brought to the warehouſe where I am Inſpector, and that I will not paſs any hemp that is not in my judgment dry, ſound, well conditioned, and merchantable, nor paſs or mark any bale of hemp contrary to the intent and meaning of the Act, intituled " An Act to regulate the inſpection of hemp," *nor refuſe any hemp that is in my judgment dry, ſound, well conditioned, and fit for exportation, nor fail to enter in a book, as directed by this Act, the weight of all hemp by me ſo paſſed or refuſed, nor alter or give out any hemp, other than that for which the receipt is to be taken was given; but that I will in all things well and faithfully diſcharge my duty as an Inſpector, according to the beſt of my ſkill and judgment, and agreeably to the intention of the ſaid recited Act, without fear, favour, affection, malice or partiality.* So help me GOD.

Penalty on county courts for not providing warehouſes, &c.

VI. *And be it further enacted*, That if any Court ſhould fail or refuſe in providing ſuch houſes, ſcales, ſcrews, or other neceſſary conveniences at the places appointed by this Act, which they are hereby authoriſed and required to do out of the Aggregate Fund aforeſaid, they ſhall forfeit and pay the ſum of three hundred pounds, to be recovered with coſts by action of debt or information a-

gainſt ſuch Juſtices jointly, one moiety to the proſecutor, and the other moiety to the uſe of the Commonwealth: *And be it further enacted*, That the Act, intituled, "*An act concerning the inſpection of hemp*," ſhall be, and the ſame is hereby repealed.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 17th day of *October*, in the Year of our Lord, 1791.

CHAP. LV.

An Act concerning the Southern Boundary of this State.

[Paſſed the 7th of December, 1791.†]

Preamble.

I. WHEREAS official information hath been received by the General Aſſembly, that the Legiſlature of the State of *North-Carolina* have reſolved to eſtabliſh the line commonly called *Walker's* line, as the boundary between *North-Carolina* and this Commonwealth, and it is judged expedient to confirm and eſtabliſh the ſaid line on the part of this State: *Be it therefore enacted by the General Aſſembly*, That the line commonly called and known by the name of *Walker's* line, ſhall be, and the ſame is hereby declared to be the boundary line of this State.

Walker's line declared to be the Southern boundary of this State.

Claims to land between Walker's and Henderſon's line, how to be ſettled.

II. *And be it further enacted*, That in all Courts of Law and Equity within this Commonwealth, the claims for lands lying between the line commonly called *Walker's* line, and the line commonly called *Henderſon's* line, ſhall be decided in favour of the oldeſt title, whether derived from this Commonwealth, or from the State of *North-Carolina*.

CHAP. LVI.

An Act for regulating the Navigation of James River, above the Falls of the ſaid River.

[Paſſed the 17th of December, 1791.‡]

Number of every boat and owner's name, and reſidence, to be painted on it, and entered into the clerk's office.

I. BE *it enacted*, That every perſon who ſhall be Proprietor of any Boat or other Veſſel, which ſhall be employed in navigating the waters of *James* River and its branches above the Great Falls at *Richmond*, in the tranſportation of any produce or merchandize whatſoever, either raiſed or manufactured within this Commonwealth, or imported from any other place without the ſame, ſhall in the Clerk's Office of the County in which the ſaid Proprietor or Proprietors ſhall then live, enter the number of each Boat or Veſſel ſo to be employed, which number, together with the name of the County, and the name of the Owner or Owners of ſuch Boat or Veſſel, ſhall be written or painted on each ſide of the ſaid Veſſel, on ſome conſpicuous part of the outſide thereof, in large and plain letters, not leſs than four inches in length.

Penalty for failure.

II. IF the Owner or Owners of any Boat or Veſſel, which ſhall be employed in navigating the waters of the ſaid River, above the Falls thereof as aforeſaid, ſhall fail to enter in the Clerk's Office, as aforeſaid, the name or names of the Owner or Owners, the name of the county in which he or they ſhall reſide, and the number of each Boat or other Veſſel, as aforeſaid, or ſhall fail to write or paint the name or names of the Owner or Owners of the ſaid Boat or other Veſſel in manner above directed, ſo as to continue plain and legible as long as the ſaid Boat or other Veſſel ſhall be employed in navigation, he, ſhe, or they ſhall forfeit and pay the ſum of twenty ſhillings for every day he, ſhe, or they ſhall neglect to comply with the purpoſes of this Act, to be recovered by any perſon who may ſue for the ſame, by warrant from a Magiſtrate, allowing the ſaid Owner or Owners one month after the firſt day of *April* next, to attend to the requiſitions aforeſaid.

Commencement of this Act.

III. THIS Act ſhall commence and be in force, after the firſt day of *April* next.

† 1791 *ch.* 14. ‡ 1791 *ch.* 27.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 1st Day of *October*, in the Year of our Lord, 1792.

CHAP. LVII.

An Act for reducing into one, the several Acts prescribing the Oath of Fidelity and Oaths of Public Officers.

[Passed the 22d of December, 1792.*]

I. BE *it enacted by the General Assembly*, That every person by law required to give assurance of fidelity, shall for that purpose take an oath in this form:

Form of the oath of fidelity.

I, , *do declare myself a Citizen of the Commonwealth of* Virginia; *I relinquish and renounce the character of Subject or Citizen of any Prince or other State whatsoever, and abjure all allegiance which may be claimed by such Prince or other State; and I do swear to be faithful and true to the said Commonwealth of* Virginia, *so long as I continue a Citizen thereof.* So help me GOD.

No officer of government to act until he has taken it.

II. NO person shall have power to act in any Office, Legislative, Executive, or Judiciary, before he shall have given such assurance, and shall moreover have taken such of the following oaths, if another be not specially prescribed, as is adapted to his case.

Oath of a Governor.

III. THE oath of a Governor:

I, , *elected Governor of* Virginia, *by the Representatives thereof, do solemnly promise and swear, that I will, to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection or partiality; that I will, to the utmost of my power, protect the Citizens of the Commonwealth in the secure enjoyment of all their Rights, Franchises, and Privileges, and will constantly endeavour that the Laws and Ordinances of the Commonwealth be duly observed, and that Law and Justice, in mercy, be executed in all judgments; and, lastly, that I will peaceably and quietly resign the Government to which I have been elected, at the several periods to which my continuance in the said office is or shall be limited by Law and the Constitution.* So help me GOD.

Of a Privy Councillor.

IV. THE oath of a Privy Councillor:

I, , *elected one of the Privy Council of* Virginia, *by the Representatives thereof, do solemnly promise and swear, that I will to the best of my skill and judgment, execute the said office diligently and faithfully according to Law, without favour, affection, or partiality, and that I will keep secret such proceedings and orders of the Privy Council as the Board shall direct to be concealed, unless the same be called for by either House of General Assembly.* So help me GOD.

Of one, not specially directed to take any other.

V. THE oath of one not specially directed to take any other:

I, , *do solemnly promise and swear, that I will faithfully, impartially and justly, perform the duty of my office of* , *according to the best of my skill and judgment.* So help me GOD.

By whom to be administered.

VI. THE said oaths to be taken by a Member or Officer of either House of General Assembly, shall be administered by any Member of the Privy Council, and the taking thereof shall be certified to the Clerk of such House; and the said oaths to be taken by any other person, if it be not otherwise directed, shall be administered in some Court of Record, or by any Judge or Justice thereof, and the taking thereof shall be recorded in the said Court.

Oath of a Counsel or Attorney.

VII. EVERY Counsel or Attorney before he be permitted to practice in any Court within this Commonwealth, shall take the following oath before such Court:

I DO swear that I will honestly demean myself in the practice of a Counsel, Attorney or Proctor, and will execute my office to the best of my knowledge and ability.

How persons, refusing from religious scruples to take oaths, may be qualified.

VIII. ANY Person refusing to take an oath, and declaring religious scruples to be the true and only reason of such refusal, if he will use the solemnity and ceremony, and repeat the formulary observed on similar occasions, by those of the Church or religious Society he professeth himself to be a member of, or to join in communion with, shall thereupon be deemed as competent a witness, or to be as duly qualified to execute an Office, or perform any other act, to the faction whereof an oath is, or shall be required by law, and shall be subject to the

* 1779 *ch.* 5. 1779, *ch.* 7. 1786, *ch.* 56.

same rules, derive the same advantages, or incur the same penalties or forfeitures, as if he had sworn. In presentments, indictments, inquisitions, verdicts, examinations, or other forms, the words "upon their oath," or "sworn," may be left out, and instead of them, "in solemn form," or "charged," which ever may be adapted to the case, may be inserted; but if the ancient form be adhered to, it shall not be adjudged error.

Repealing clause.

IX. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

X. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LVIII.

*An Act for ascertaining the Salaries to the Officers of Civil Government.**

[Passed the 22d of November, 1792.†]

Salaries payable quarterly to the officers of civil government.

I. BE *it enacted*, That the several Officers herein after mentioned, shall receive for their salaries in quarterly payments, after the same shall have been audited, according to law: The Governor or Chief Magistrate, the sum of two thousand six hundred and sixty-seven dollars. The Members of the Privy Council, the sum of six thousand six hundred and sixty-seven dollars, to be divided amongst them according to their attendance. The Judges of the Court of Appeals, the Judge of the High Court of Chancery, and the Judges of the General Court, each, the sum of one thousand dollars. The Attorney-General, the sum of six hundred and sixty-seven dollars, *per annum*; and to each of his Deputies in the District Courts, seventy-five dollars *per annum*. The Auditor of Public Accounts, the sum of one thousand dollars *per annum*. The Speaker of the Senate, the sum of three dollars and thirty-four cents *per* day, during each Session of Assembly, including his daily pay. The Speaker of the House of Delegates, the sum of six dollars and sixty-seven cents *per* day, in like manner. The Clerk of the General Court, for his ex-officio services, the sum of one hundred dollars *per annum*. The Register of the Land-Office and his Clerks, the sum of one thousand three hundred and thirty-three dollars *per annum*. The Treasurer, the sum of sixteen hundred and sixty-seven dollars *per annum*. The first Clerk of the Council, Treasury, and Auditor, the sum of five hundred dollars *per annum*, each, and each of the other Clerks of the Council, Treasury, and Auditor, the sum of three hundred and thirty-four dollars *per annum*. And the Keeper of the Public Jail, the sum of eighty-four dollars *per annum*. All those several sums shall be paid in Specie, and the Auditor is hereby authorised to audit the same, and issue his warrants upon the Treasury accordingly.

Repealing clause.

II. ALL and every Act and Acts, clauses and parts of Acts heretofore made, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Proviso.

Provided always, that nothing in this Act contained, shall be construed to affect any right which shall have accrued prior to the commencement of this Act.

Commencement of this Act.

III. THIS Act shall commence in force, from and after the first day of *January* next.

CHAP. LIX.

An Act to punish Bribery and Extortion.

[Passed the 19th of October, 1792.]

Penalties on any officer of government taking any thing for doing his office except what is allowed by law.

I. BE *it enacted by the General Assembly*, That no Treasurer, Keeper of any Public Seal, Councillor of State, Counsel for the Commonwealth, Judge, Clerk of the Peace, Sheriff, Coroner, Escheator, nor any other Officer of the Commonwealth, shall in time to come, take in any form, any manner of brokerage or reward for doing his office, other than is, or shall be allowed by law. And he that doth, shall pay unto the party grieved, the treble value of that he hath received, shall be amerced and imprisoned at the discretion of a Jury, and shall be discharged from his office for ever. And he who will sue in

* *Amended in* 1796, *ch.* 19. † *Nov.* 1781, *ch.* 33. 1785, *ch.* 16.

the said matter, shall have suit, as well for the Commonwealth as for himself, and the third part of the amercement.

Members of General Assembly bribing electors to be expelled, and ineligible for three years.

II. ANY person hereafter to be elected to serve in the General Assembly, who shall directly or indirectly give or agree to give to any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected for any County, City, or Borough, or for any District, shall be expelled, and be disabled from being elected a Member to either House of the General Assembly, during the term of three years. (*a*)

Penalty for bribing electors of Representatives in Congress.

III. ANY candidate or other person in his behalf, who shall directly or indirectly give or agree to give any Elector or pretended Elector, money, meat, drink, or other reward, in order to be elected, or for having been elected a Representative of this Commonwealth in Congress, shall forfeit and pay fifteen hundred dollars, for each offence, to be recovered with costs, by action of debt, to the use of any person who will sue for the same. (*b*)

Repealing clause.

Proviso.

IV. ALL and every Act and Acts, clauses and part of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, That any act of bribery or extortion committed or done before the commencement of this Act, may be prosecuted in the same manner as if this Act had never been made.

Commencement of this act.

V. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LX.

An Act against buying and selling of Offices.

[Passed the 19th of October, 1792.‡]

Penalty for selling any public office, or for taking any thing for a vote in the appointing to any such office.

I. BE *it declared and enacted by the General Assembly*, That if any person or persons shall bargain or sell any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or receive or take any money, fee or reward, or any other profit directly or indirectly, or take any promise, agreement, covenant, bond, or any assurance to receive or have any money, fee or reward, or other profit directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or for a vote in appointing to any office or offices, or the deputation of any office or offices, to the intent that any person should have, exercise, or enjoy any office or offices, or deputation of any office or offices, or any part or parcel of them, which shall in any wise touch or concern the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the public Revenue, or which shall concern or touch any clerkship in a Court of Record, all and every person or persons so offending, shall be incapable of appointing or voting for the appointment to any such office, and shall be adjudged a disabled person in Law, to all intents and purposes, to have, occupy, or enjoy the office in virtue of which he holds, or shall hold the right of appointing or voting for the appointment to such office, and shall moreover be amerced and imprisoned at the discretion of a jury; and if a Member of either House of Assembly, he shall moreover be expelled from the same, and forever after disabled from being elected a Member of the General Assembly.

For giving or agreeing to give any thing for any such office.

II. EVERY person who shall directly or indirectly give or pay any money, fee or reward, or shall make any promise, agreement, bond or assurance, to give any money, fee or reward whatsoever, for any vote or appointment to any office, which concerns the administration of the Executive Government, or the administration or execution of justice, or the receipt or payment of the Public Revenue, or for the clerkship in any Court of Record, or for the deputation or deputations to any of the said offices, shall be utterly incapable of serving in any such office.

Contracts for those purposes void.

III. EVERY such bargain, sale, promise, bond, covenant, agreement and assurance, as before specified, shall be utterly void and of no effect.

Not to extend to appointments of deputy clerks or sheriffs.

IV. *PROVIDED always*, That nothing in this Act contained, shall be so construed as to prohibit the appointment, qualification, and acting of any Deputy Clerk, or Deputy Sheriff, who shall be employed to assist their principals in the execution of their respective offices.

(*a*) 1785, *ch.* 55, *sec* 10. (*b*) 1788, *ch.* 2. *sec.* 4. ‡ *Stat.* 5 & 6, *Edw.* 6, *ch.* 16.

Official acts of persons convicted under this act, performed before removal from office, valid.

V. *PROVIDED always*, That if any person or persons shall be convicted of having offended against this Act, yet all judgments given, and all other Acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited, or not occupied, or not enjoyed, by the person so convicted, after the offence so by such person committed or done, and before such person so offending for the same offence be removed from the exercise, administration, and occupation of the said office or deputation, shall be good and sufficient in Law to all intents, constructions, and purposes, in such like manner and form as the same should or ought to have remained and been, if this Act had never been made.

Repealing clause.

VI. ALL and every Statute and Statutes, Act and Acts, Clause or Clause, thereof, within the purview of this Act, (except as herein after provided) shall be, and are hereby repealed. *Provided always*, That nothing in this Act contained shall be construed to repeal the said Statutes or Acts, for so much of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act.

Proviso.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXI.

An Act for arranging the Counties in Districts for electing Senators.

[Passed the 12th of December, 1792.†]

Arrangement of the counties into senatorial districts.

I. FOR the regular election of Senators to the General Assembly, *Be it enacted*, That the Counties of *Accomack* and *Northampton*, shall be one District; the Counties of *Norfolk*, *Princess-Anne*, and *Nansemond*, one other District; the Counties of *Surry*, *Isle of Wight*, and *Prince-George*, one other District; the Counties of *Sussex*, *Dinwiddie*, and *Southampton*, one other District; the Counties of *Brunswick*, *Lunenburg*, *Mecklenburg*, and *Greensville*, one other District; the Counties of *Charlotte*, *Halifax*, *and Prince-Edward*, one other District; the Counties of *Amelia*, *Chesterfield*, *Cumberland*, *Nottoway*, and *Powhatan*, one other District; the Counties of *Buckingham*, *Amherst*, *Albemarle*, and *Fluvanna*, one other District; the Counties of *Franklin*, *Pittsylvania*, *Campbell*, *Bedford*, *Henry*, and *Patrick*, one other District; the Counties of *Wythe*, *Botetourt*, *Washington*, *Montgomery*, *Russell*, *Greenbrier*, and *Kanawha*, one other District; the Counties of *Elizabeth City*, *Warwick*, and *York*, one other District; the Counties of *Charles City*, *James City*, and *New-Kent*, one other District; the Counties of *Goochland*, *Henrico*, and *Louisa*, one other District; the Counties of *Hanover* and *Caroline*, one other District; the Counties of *Augusta*, *Rockingham*, *Rockbridge*, *Shenandoah*, *Pendleton*, and *Bath*, one other District; the Counties of *Essex*, *King-William*, and *King & Queen*, one other District; the Counties of *Gloucester*, *Middlesex*, and *Mathews*, one other District; the Counties of *Lancaster*, *Richmond*, and *Northumberland*, one other District; the Counties of *King-George*, *Westmoreland*, and *Stafford*, one other District; the Counties of *Spotsylvania*, *Orange*, and *Culpeper*, one other District; the Counties of *Fairfax* and *Prince-William*, one other District; the Counties of *Loudoun* and *Fauquier*, one other District; the Counties of *Frederick*, *Berkeley*, *Hampshire*, and *Hardy*, one other District; the Counties of *Monongalia*, *Harrison*, *Ohio*, and *Randolph*, one other District.

Repealing clause.

II. ALL Ordinances of Convention, or Acts of Assembly, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

III. THIS Act shall commence in force, from and after the passing thereof.

CHAP. LXII.

An Act for reducing into one, the several Acts and parts of Acts respecting the Powers and Duties of the Executive.

[Passed the 16th of November, 1792.]

Powers vested in the Executive for suppressing combinations for dismembering the state.

I. BE *it enacted*, That if any combination for dismembering this State, or establishing in any part of it a separate Government, should become so powerful as to obstruct the due execution of the Laws of this Commonwealth, in the ordinary course of proceeding within any County or Counties thereof, it

† *May* 1776, *ch.* 6, *sec.* 1 & 2.

shall be lawful for the Governor, with advice of Council, to call out the Militia of the State to suppress such Combination, and to employ them in the same manner as he may do by Law, in cases of Invasion or Insurrection.

For apprehending suspicious subjects of a foreign state, in case of war with such state.

II. IT shall and may be lawful for the Governor, with the advice of the Council of State, to apprehend and secure, or cause to be apprehended, and secured, or compelled to depart this Commonwealth, all suspicious persons, being the subjects of any foreign Power or State, who shall have made a declaration of war, or actually commenced hostilities against the said States, or from whom the President of the United States shall apprehend hostile designs against the said States; provided information thereof shall have been previously received by the Executive from him, And in all such cases, the Governor, with the advice of the Council of State, shall, and he is hereby empowered, to send for the person and papers of any Foreigner within this State, in order to obtain such information as he may judge necessary. (*a*)

Their persons and papers may be sent for and secured.

Sheriffs and Jailors to obey the warrants of the Governor respecting them.

III. ALL Sheriffs and Jailors shall receive such suspicious persons, whom by Warrant from the Governor they shall be commanded to receive, and them in their prisons or custody to detain, or transport out of the Commonwealth, as by such Warrant they may be commanded. And all others, the good Citizens of this Commonwealth, shall be aiding and assisting in apprehending, securing, or transporting any such suspicious person, when commanded by Warrant or Proclamation of the Governor, or required by the Sheriff or Jailor to whose custody such suspicious persons may have been committed. Every person acting under the authority aforesaid, shall be indemnified from all suits to be commenced or prosecuted for any action or thing done by virtue thereof, and may plead the general issue and give this Act in evidence. Saying always to the Merchants of any Foreign State, betwixt whom and the United States of *America*, war shall have arisen, and to their Families, Agents, and Servants, found in this Commonwealth at the beginning of the war, the privileges allowed by Law. (*a*)

Saving to foreign merchants their legal privileges.

Who shall officiate as Lieutenant Governor in case of the inability of the Governor and President of the Council.

IV. IF the Governor and President of the Privy Council shall die, or otherwise become unable to perform his duty, in the recess of the General Assembly, the Privy Councillor, whose name stands next in the list of their appointments, shall officiate as Lieutenant-Governor, until the vacancy be supplied, or the disability cease. (*b*)

When the Council may act without the Governor or President.

V. AND in the absence of the Governor, such intended absence having been previously notified to them by him, and entered on their Journals, or in the like absence of the President, and upon the like notification, if any business to be transacted at the Council Board necessarily require dispatch before he can attend it, the Council may proceed without him; and in either case the Act shall be as valid as if he had been present. (*b*)

Clerks of the Council, how to be appointed, qualified, and removed.

The Governor and Council shall have power to appoint from time to time, as they shall be wanting, a drawing Clerk, a copying Clerk, and a Clerk of foreign correspondence, who shall each of them take an oath, to be administered by any Member of the Board, to keep secret all such matters as they shall direct them to keep secret; which Clerks shall be removed at their will. (*c*)

Guards for public service how to be procured.

VI. IT shall and may be lawful for the Governor, with the advice of Council, to cause as many men (not exceeding twenty-five) with proper Officers to be enlisted as guards for public service, as he the said Governor, with advice of Council, may deem necessary, and may retain the same in service so long as the public exigencies may require. (*d*)

When the Executive may appoint justices of the peace without a recommendation.

VII. IF it shall happen that there is not a sufficient number of Justices for holding a Court in any County, either by deaths, refusal to act, or removal out of the County, the Governor for the time being, with advice of Council, shall have full power to issue a Commission or Commissions of the Peace for the appointment of any number of Magistrates in such County, so circumstanced, as shall be judged necessary for carrying on the business of the same. (*e*)

The Executive to send the laws to the clerks of the County Courts.

VIII. IT shall be the duty of the Executive to send copies of the Laws of this Commonwealth by express, or otherwise, as they shall think best, to the Clerk of every County and Corporation Court within the same, for the use of each Magistrate, Clerk, States Attorney, and Sheriff, in the County or Corporation, as soon as the said Laws are printed; the expense whereof shall be defrayed out of the Contingent Fund.

(*a*) 1785, *ch.* 15. (*b*) 1785, *ch.* 56. (*c*) 1785, *ch.* 58. (*d*) *May* 1783, *ch.* 30.
(*e*) *Oct.* 1778, *ch.* 5, *sec.* 3.

Fines assessed by a jury not to be remitted by the Executive.

IX. IT shall not hereafter be lawful for the Executive to remit any fine or amercement assessed by a Jury.*

X. ALL and every Act and Acts, clause and clauses of Acts, within the purview of this Act, shall be, and are hereby repealed.

Commencement of this act.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXIII.

An Act for reducing into one Act, the several Acts concerning the Court of Appeals, and special Court of Appeals.

[Passed the 26th of October, 1792.]

Court of Appeals to consist of five judges.

I. BE *it enacted by the General Assembly*, That the Court of Appeals shall consist of five Judges, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth. Any three of the said Judges shall constitute a Court. The said Court shall be holden at the Capitol, in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. (*a*) The said Court shall be holden twice in every year, namely, on the tenth day of *April*, and the tenth day of *October*, or when that shall happen to be *Sunday*, on the succeeding day, and shall sit each time, until the business depending before them shall be dispatched. (*b*) Every Judge before he exercises his office, shall in open Court give assurance of fidelity to the Commonwealth, and take this oath:—

Any three to constitute a court

Where to be holden.

Terms.

Oaths to be taken by the judges.

YOU shall swear that you will well and truly serve this Commonwealth in the office of a Judge of the Court of Appeals and that you will do equal right to all manner of people, great and small, high and low, rich and poor, without respect of persons. You shall not take by yourself or by any other any gift, fee or reward of gold, silver, or any other thing directly or indirectly of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself or by any other, privily or openly any plea or quarrel, depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to the Law, you shall nothing do for such letter or request but you shall proceed to do the Law, any such letter or request notwithstanding. And finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly and truly according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor or affection. So help you GOD. (*c*)

Jurisdiction of the court.

II. THE said Court shall have jurisdiction not only in the cases provided for by the Constitution of this Commonwealth, and in suits originating there, or adjourned thither for trial by virtue of any statute, which trial shall be by Juries according to the course of Law, but also in such as are now pending therein, or shall be brought before them by appeals, writs of *error*, or *supersedeas*, to reverse Decrees of the High Court of Chancery, or judgments of the General Court, or District Courts of this Commonwealth, after those decisions shall be final there, if the matter in controversy be equal in value, exclusive of costs, to one hundred dollars, if the judgment sought to be reversed, shall be rendered in the District Courts, or one hundred and fifty dollars, if in the General Court or High Court of Chancery, or be a freehold or franchise; and in all other cases therein depending at the commencement of this Act. (*d*)

Regulations respecting the adjournment of the court when the judges do not attend.

III. IF a sufficient number of Judges to constitute a Court shall not attend on the first day of any Term of the Court of Appeals, it shall be lawful for any one Judge thereof to adjourn the Court from day to day, for four days successively, or until a sufficient number shall attend, and if that shall not happen before four of the clock on the fourth day, then the Court shall stand adjourned, and all suits depending therein continued to the next Court. And if during any session after a Court shall have been constituted, three Judges shall not attend to make a Court, there shall be no discontinuance of the Term, but the Court shall stand adjourned from day to day, till a sufficient number shall attend;

* *By act of Dec. session, 1800, ch. 59, Executive prohibited from remitting any fines except in cases where they are expressly empowered by law to do so.*

(*a*) 1788, *ch.* 68. (*b*) 1791, *ch.* 12. (*c*) *May* 1779, *ch.* 22. (*d*) 1788, *ch.* 67, *sec.* 16. 1790, *ch.* 9, *sec.* 2.

provided that ſhall happen in four days: and if it does not, then the Term and ſuits ſhall ſtand adjourned to the next Court, as before directed. (a)

The court to determine cauſes in which one or more of the judges may be intereſted if there remains a ſufficient number to make a court.

IV. ALTHOUGH one or more of the Judges of the Court of Appeals be intereſted in the event of any ſuit, matter or thing depending therein, the ſame ſhall be finally decided by the other Judges, if there be a number of Judges not ſo intereſted ſufficient to conſtitute a Court. (b)

Special Courts of Appeals to be held for the trial of ſuits in which a majority of the judges of the Court of Appeals are intereſted.

V. IF, on an appeal from the High Court of Chancery, or on any queſtion concerning any decree or order made therein, or proceſs to be directed thereto, a majority of, or all the Judges of the Court of Appeals be intereſted, then in the former caſe the remaining Judges of the Court of Appeals not ſo intereſted, and as many of the Judges of the General Court, as will make the number at leaſt five, and in the latter caſe ſo many of the Judges of the General Court not ſo intereſted, as will make the number five at leaſt, ſhall conſtitute a Special Court for the trial of ſuch appeal or queſtion. If on an appeal, writ of *error*, or *ſuperſedeas*, to or from any judgment or order made in the General Court, or any queſtion concerning the ſame, or any proceſs to be directed thereto, a majority, or all of the Judges of the Court of Appeals be intereſted therein, then in the former caſe the remaining Judges of the Court of Appeals, not being ſo intereſted, together with the Judge of the High Court of Chancery, and as many of the Judges of the General Court, not being ſo intereſted, as will make the number five at leaſt, ſhall conſtitute a like Court for the purpoſe aforeſaid. If on an appeal, writ of *error*, or *ſuperſedeas*, to or from any judgment or order made in a Diſtrict Court, or any queſtion concerning the ſame, or concerning any proceſs to be directed thereto, a majority, or all the Judges of the Court of Appeals be intereſted, then in the former caſe, the remaining Judges of the Court of Appeals not being intereſted, the Judge of the High Court of Chancery not being ſo intereſted, and as many of the Judges of the General Court, who are not ſo intereſted, and did not render the judgment, or direct the order, as will make the number five at leaſt, ſhall conſtitute a like Court for the purpoſe aforeſaid; and in the latter caſe, no Judge of the Court of Appeals ſhall ſit; but any five of the Judges laſt mentioned, and not diſqualified as aforeſaid, ſhall conſtitute a Court; *Provided always*, that in caſe of the ſickneſs or other diſability of the Judge of the High Court of Chancery to attend any Special Court of Appeals, ſuch Court may, in any caſe, be conſtituted by other Judges. (c) *And provided alſo*, that when any Special Court ſhall be appointed for the trial of any cauſe depending in the Court of Appeals, becauſe a majority of the Judges of that Court are intereſted or otherwiſe diſqualified to ſit therein, in caſe of the ſickneſs or diſability of the remaining Judge or Judges of the ſaid Court not ſo diſqualified, or either of them, the remaining Judges appointed by law to hold ſuch Court, or any five of them attending may proceed to a hearing and deciſion of the cauſe, in the ſame manner as if all the Judges of the Court of Appeals, not ſo diſqualified, had been preſent.

When and where.

VI. WHENSOEVER a majority, or all the Judges of the Court of Appeals ſhall be intereſted in any of the caſes above-mentioned, the ſame ſhall be entered of Record in the ſaid Court, and the Clerk thereof ſhall thereupon iſſue a ſummons to the Judge of the High Court of Chancery, and Judges of the General Court, requiring them, if not diſqualified as aforeſaid, to attend at the Capitol, in the City of Richmond, or in caſe of adjournment of the Court of Appeals to any other place, at ſuch other place on the 20th day of *June* or *November*, then next following, and ſtating the names of the parties, and the Court whoſe deciſion is to be examined. A Court conſtituted in any of the caſes above deſcribed, ſhall hear, determine, and finally decide all ſuits, proceſs, matters and things ſubmitted to their cognizance and juriſdiction aforeſaid. (d)

To be attended by the clerk, and other officers of the Court of Appeals, and to have the ſame power of adjournment, &c.

VII. THE Clerk of the Court of Appeals for the time being, ſhall attend all ſuch Special Courts with the Records in the caſes to ſuch Special Courts committed, and enter the proceedings of all ſuch Special Courts in the order Book of the Court of Appeals, and the ſame ſhall be ſigned by the preſiding Judge of ſuch Special Court, and be certified to the Inferior Court; and the judgment or decree, ſentence or order of ſuch Court, ſhall be carried into execution in the ſame manner as if the ſame had been determined in the Court of Appeals. Such Special Courts ſhall be attended by the like Officers with the Court of Appeals, who ſhall receive the like compenſation as they now do in the ſaid Court; and

(a) 1790, *ch.* 9, *ſec.* 2. (b) 1789, *ch.* 18. (c) 1791, *ch.* 11, *ſec.* 4. (d) 1789, *ch.* 18, *ſec.* 9. *Amended in* 1796, *ch.* 17. 1791, *ch.* 11.

such Special Courts may adjourn and do all and every act as a Court during their Session, which the Court of Appeals may by Law do. (*a*)

Causes in the Special Courts when to be resumed by the Court of Appeals.

VIII. *PROVIDED always*, That where any cause shall be pending in any such Special Court, and the same shall not be determined before there shall be a sufficient number of the Judges of the Court of Appeals qualified to make a Court for deciding the same, such cause shall be resumed by the Court of Appeals, and be determined there, as if such cause had never been committed to a Special Court.

Oaths to be administered to the judges attending such Special Courts.

IX. EACH Judge attending in consequence of such summons, shall in open Court take an oath to do his duty as a Judge of Appeals, in the case or cases on which he is summoned, impartially and truly, without favour or affection; which oath shall be administered by the eldest sitting Judge, and shall then be administered to him, if he shall not before have qualified as a Judge of the Court of Appeals by one other of the Judges. (*b*)

Allowances to them for attendance and travelling expenses.

X. EACH Judge attending in consequence of such summons, and not disqualified as aforesaid, shall be allowed for his attendance three dollars and thirty-three cents *per* day, and for travelling to and from the place of Session, two dollars for every twenty miles: And the Judges of the Court of Appeals, attending such Special Court, and not disqualified to sit therein, shall be paid the same allowance. (*c*)

Court of Appeals to appoint their officers; to be attended by the sheriff of the county in which the court is holden.

XI. THE Court of Appeals shall appoint a Clerk, Tipstaff, and Cryer, the first removable for misbehaviour, in the manner directed by the Constitution, the two others at pleasure; and shall be attended by the Sheriff of the County, in which they sit, as their Officer. (*d*)

Judges may appoint a clerk in vacation.

XII. IF a vacancy shall happen in the office of Clerk out of the terms of the said Court, it shall be lawful for a majority of the Judges, by commission under their hands and seals, to appoint a Clerk to fill such vacancy. (*e*)

Duty of the clerk. Rule in docketing causes.

XIII. THE Clerk of the said Court shall carefully preserve the transcripts of Records certified to his Court with the Bonds for prosecution, and all papers relative to them, and other suits depending therein, docketing them in the order he shall receive them, that they may be heard in the same course, unless the Court for good cause to them shewn, direct any to be heard out of its turn, and shall faithfully record their proceedings and decisions, and certify the same to the proper Courts. (*f*)

Jurisdiction of the court with respect to appeals, writs of error, supersedeas, &c.

XIV. APPEALS, writs of *error*, and *supersedeas*, may be granted, heard and determined by the Court of Appeals, to and from any final decree or judgment of the High Court of Chancery, General Court and District Courts, in the same manner, and on the same principles, as appeals, writs of *error* and *supersedeas*, are to be granted, heard and determined by the High Court of Chancery, and District Courts, to and from any final decree or judgment of a County, City, or Borough Court, and the party shall proceed in like manner, and the damages in case of affirmance shall be the same in the Court of Appeals, as in those Courts respectively; and the Clerk of the said Court shall issue the like process for summoning the adverse party, removing the Records, suspending the execution, and for every other requisite purpose, making those alterations in the form, which are necessary to adapt it to the case, as are prescribed in the like cases in the High Court of Chancery, and the District Courts, respectively. (*g*)

Writs of supersedeas may be granted in vacation.

XV. WRITS of *supersedeas* may be granted by any Judge of the Court of Appeals during vacation, the party desiring to obtain the same, proceeding in like manner as in the case of a *supersedeas* to be granted by a Judge of the District Courts, to a judgment of the County Court. (*h*)

By whom bond and security may be given in appeals, &c.

XVI. WHERE one person or several obtain an appeal, writ of *error*, or *supersedeas*, bond and security given by any party, or by any responsible person, shall be valid and sufficient. (*i*)

When records in appeals &c. are to be filed.

XVII. WHENSOEVER any appeal, writ of *error*, or *supersedeas*, shall be granted, and a transcript of the Record be not sent to the Court on or before the second term of the Court of Appeals, after the same shall have been granted, such appeal, writ of error, or *supersedeas*, shall be dismissed, unless good cause be shewn to the contrary. (*k*)

After dismission of ap-

XVIII. AFTER the dismission of an appeal, writ of *error*, or *supersedeas*,

(*a*) 1791, *ch.* 11. (*b*) 1790, *ch.* 7, *sec.* 3. (*c*) 1789, *ch.* 18. 1791, *ch.* 11, *sec.* 3. (*d*) *May* 1779, *ch.* 22. (*e*) 1788, *ch.* 68, *sec.* 8. (*f*) *May* 1779, *ch.* 22. (*g*) 1788, *ch.* 68, *sec.* 12. *May* 1779, *ch.* 22. (*h*) 1789, *ch.* 13, *sec.* 18. (*i*) 1788, *ch.* 67, *sec.* 92. *ib. ch.* 68, *sec.* 10. (*k*) 1789, *ch.* 18, *sec.* 12.

in the Court of Appeals, no appeal, writ of *error*, nor *supersedeas* shall be allowed. (*a*)

peals, &c. none others to be allowed.

XIX. A CLEAR and concise state of the case of each party in an appeal, writ of *error*, or *supersedeas*, with the points intended to be insisted on, signed by his counsel and printed, the expense whereof shall be taxed in the bill of costs, shall be delivered to every Judge time enough before the hearing, for his consideration; but the Court, if this be neglected, may nevertheless hear and determine the matter, and may give such decree or judgment, if it be not affirmed or reversed in the whole, as the Court whose error is sought to be corrected ought to have given, (affirming on those cases where the voices on both sides shall be equal, with an allowance of the costs of appeal to the party prevailing) to be certified to the Court from which the matter was removed, who shall enter it as their own, and award execution thereupon accordingly. (*b*)

Cases to be stated and printed for the Judges.

Judgments of the court how to be rendered.

XX. IT shall not be lawful for the High Court of Chancery, or General Court, to remove before the Court of Appeals, by adjournment, any question, matter or thing, whatsoever. (*c*)

No question to be removed by adjournment to the Court of Appeals.

XXI. THE Judges of the Court of Appeals shall direct the form of writs from time to time in such manner as shall seem advisable. (*d*)

The judges to direct the forms of writs.

XXII. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

XXIII. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXIV.

An Act reducing into one, the several Acts concerning the High Court of Chancery.†

[Passed the 29th of November, 1792.]

I. BE *it enacted by the General Assembly*, That the High Court of Chancery shall consist of one Judge, to be chosen and commissioned in the manner directed by the Constitution of this Commonwealth.

High Court of Chancery to consist of one judge; how chosen and commissioned.

II. THE said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess by the Governor, with the advice of the Council of State, on any such emergency, as will make the adjournment lawful. (*e*)

Where to be held.

III. THE said Court shall be holden three times in every year, namely, on the first day of *March*, on the twelfth day of *May*, and on the tenth day of *September*; but if either of those days happen on a *Sunday*, on the day following. The Session in *March* shall continue eighteen, and the Sessions in *May* and *September* twenty-four juridical days successively, unless the business depending before the said Court shall be sooner dispatched. (*f*)

Terms.

IV. IF the Judge shall not attend on the first day of the Term, such Court shall stand adjourned from day to day until a Court be made, if that shall happen before four o'clock in the afternoon of the sixth day. (*g*)

The court to be adjourned from day to day for six days when the judge does not attend.

V. IF a Court shall not sit in any Term, or shall not continue to sit the whole Term, or before the end of the Term shall not have heard and determined all matters ready for its decision, all suits, matters and things depending in Court and undecided, shall stand continued to the next succeeding Term. If from any cause the Court shall not sit on any day of the Term after it shall have been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before it be not sooner dispatched.

Causes to be continued to the next term when the court does not sit, or does not finish the business.

VI. EVERY person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to this Commonwealth, and take the following oath: (*b*)

Oaths to be taken by the judge.

"YOU shall swear that well and truly you will serve this Commonwealth in the office of Judge of the High Court of Chancery, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to equity and good conscience, and the Laws and usages of Virginia, *without respect of persons.*

(*a*) 1789, *ch.* 18, *sec.* 12. (*b*) *May* 1779, *ch.* 22. (*c*) 1789, *ch.* 18, *sec.* 1. (*d*) 1788, *ch.* 67, *sec.* 22.

† *By act of Dec. session*, 1801, *pa.* 12, *ch.* 14, *three superior Courts of Chancery are established.*

(*e*) 1788, *ch.* 69. (*f*) 1790, *ch.* 12. 1791, *ch.* 12. (*g*) 1788, *ch.* 69. (*b*) Oct. 1777, *ch.* 15. *sec.* 1.

You shall not take by yourself, or by any other, any gift, fee, or reward, of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done by virtue of your office, except such fees or salary as shall be by Law appointed. You shall not maintain by yourself, or by any other, privily or openly any plea or quarrel depending in the Courts of this Commonwealth. You shall not delay any person of right for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do be Law, any such letter or request notwithstanding; and finally in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial justice, without fraud, favor, affection or partiality. So help you GOD.

Such oath shall be taken before the Executive, and a certificate recorded in the said Court.

Penalty for acting without taking the oaths.

VII. IF any person shall presume to execute the said office, without having taken the said oaths, he shall forfeit and pay the sum of fifteen hundred dollars for his said offence. *(a)*

Jurisdiction of the court.

VIII. THE said Court shall have general jurisdiction over all persons, and in all causes in Chancery, now pending therein, or which may hereafter be brought before it, whether by original process, appeal from any Inferior Court, *certiorari*, or other legal means, and also in such other cases, as by any statute, are, or shall be made cognizable therein: But no person shall commence an original suit in any matter of less value than thirty-three dollars and thirty-three cents, except it be against the Justices of any County or other Inferior Court, on pain of having the same dismissed with costs. *(a)*

In what cases to be considered as always open.

IX. THE said Court shall be considered as always open, so as to grant injunctions, writs of *ne exeat*, *certiorari*, and other process heretofore usually granted in vacation. *(a)*

Officers to be appointed.

X. THE said Court shall have power to appoint a Clerk, who shall hold his office during good behaviour, and be entitled to such fees or salary as the Legislature may appoint, as also a Serjeant at Arms: *(a)* And in case of a vacancy in the recess of the said Court, the said Judge may make the like appointments under his hand and seal, during a vacation; and such succeeding Clerk or Serjeant, having, in any Court of Record, taken the oaths required by Law, shall exercise the same power, perform the same duties, and be entitled to the same fees and profits, as if he had been appointed in Term time. *(b)*

The court may require the opinion of the General Court in matters of law.

XI. IT shall be lawful for the High Court of Chancery to send any matter of Law to the General Court, for their opinion, to be certified thereupon. *(c)*

May proceed against other absent defendants as against absent debtors.

XII. ALTHOUGH any of the Defendants, whether debtors or others, in any suit instituted in the said Court, should be absent from the Commonwealth, the Court may nevertheless proceed to a hearing and decree therein, as in the case of absent debtors having effects within the Commonwealth. *(d)*

May direct issues to be tried.

Mode of trial in all other cases.

XIII. THE said Court in its discretion, may direct an issue to be tried, whenever it shall be judged necessary, either in that Court, or in any other Court whatsoever, as justice or convenience to the parties may require, and in all other cases the mode of trial shall be the same as hath been heretofore used and practised in the Courts of Chancery in *Virginia*. *(e)*

Suits properly cognizable in the General Court may be tried in the Court of Chancery, when a majority of the judges of the former are interested.

XIV. IF a majority of the Judges of the General Court be interested in any suit, which in the case of any other person would have been proper for the Jurisdiction of such Court, it may be lawful to institute such suit in the High Court of Chancery, where proceedings shall be had conformably to the rule of the General Court, and process shall be returnable as the High Court of Chancery shall direct; and thereafter an appeal may be entered to the Court of Appeals. *(f)*

XV. IT shall be lawful for the said Court to arrange the business thereof in the most convenient and equitable manner. *(g)*

When appeals may be made from decrees in county courts where not entered when the decrees were pronounced.

XVI. ANY party thinking himself aggrieved by a decree of the Court of a County, City, or Borough, in Chancery, and not having entered an appeal from the decree at the time it was pronounced, may appeal from such decree at any time within one month after the decree pronounced, lodging for that purpose with the Clerk of the High Court of Chancery, a copy of the proceedings in the suit, and a petition suggesting error in the decree, signed by some Counsel attending the High Court of Chancery, and also lodging with the petition

(a) *Oct.* 1777, *ch.* 15. *sec.* 2. (b) *May* 1778, *ch.* 7. (c) 1788, *ch.* 69, *sec.* (d) 1787, *ch.* 9. *sec.* 3. (e) *O.S.* 1783, *ch.* 26, *sec* 3. (f) 1788, *ch.* 67, *sec.* 13 1768, *ch.* 69. *sec.* 4.

a bond executed by the appellant or his agent, and a ſurety or ſureties, with the like condition as is annexed to other appeal bonds, and affidavits, or ſolemn affirmations, verifying the ſufficiency of the ſureties; and the Clerk ſhall thereupon iſſue a ſummons againſt the appellee, requiring him to appear and anſwer the ſaid petition and appeal, and ſhall alſo iſſue a *ſuperſedeas*, if neceſſary, to enjoin from proceeding in execution of the decree; and the Court ſhall and may hear and determine the appeal in the ſame manner as if the appeal had been entered at the time the decree was pronounced. *(a)*

By whom bond and ſecurity may be given in appeals, &c.

XVII. *PROVIDED always*, That whenever an appeal is prayed for from any Inferior court to the ſaid High Court of Chancery, or bond is given for the removal of any ſuit in Chancery, in any manner whatſoever, it ſhall be ſufficient in either caſe, if the ſaid bond or bonds ſhall be executed by good and ſufficient ſecurities, although the appellant or party ſhall not execute the ſaid bond or bonds. *(b)*

How appeals may be obtained from decrees in county courts where not entered when the decrees were pronounced.

XVIII. THE ſaid Court, or the Judge thereof in vacation, ſhall have power, for good cauſe ſhewn, to allow a petition of appeal, and if neceſſary, order a *ſuperſedeas* to ſtop the execution of any decree pronounced by an Inferior Court, at any time within three years after pronouncing the ſame; the party praying ſuch appeal and *ſuperſedeas*, complying with the terms which the ſaid Court or Judge ſhall annex to ſuch order. *(c)*

Proceſs how to be iſſued.

XIX. ALL original proceſs to bring any perſon to anſwer any bill, petition or information in the ſaid Court, and all ſubſequent proceſs thereupon, ſhall be iſſued and ſigned by the Clerk in the name of the Commonwealth, and bear teſte by the Judge of the ſaid Court; ſhall be returnable to the firſt or ſeventeenth days of the term, which ſhall be next after the ſuing out ſuch proceſs, and may be executed at any time before the return day thereof. And if any proceſs ſhall be executed ſo late that the Sheriff hath not reaſonable time to return the ſame before the day of appearance, and thereupon any ſubſequent proceſs ſhall be awarded, the Sheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, on which there ſhall be the ſame proceedings as if it had been returned in due time. *(d)*

Return days.

Appeals to be made to the third day of the next term.

XX. ALL appeals from decrees in Chancery, obtained in any Inferior Court, ſhall be made to the third day of the next term.

Rules to be obſerved in the pleadings.

XXI. IN all ſuits in the ſaid Court, the following rules and methods ſhall be obſerved: The complainant ſhall file his bill within one calendar month after the day of appearance, or may be ruled on the requiſition of the defendant to file ſuch bill, and if he fails to do ſo within one calendar month after ſuch rule, the ſuit may be diſmiſſed with coſts; and if he ſhall fail to file the ſame within three months after the *ſubpœna* ſhall be returned executed, the ſuit ſhall ſtand *ipſo facto* diſmiſſed with coſts. *(e)*

XXII. AND upon the complainant's diſmiſſing his bill, or the defendant's diſmiſſing the ſame for want of proſecution, the complainant ſhall pay coſts, to be taxed by the Clerk of the Court; for which coſts, an attachment, or other proceſs of contempt, or an execution may iſſue, at the election of the defendant, returnable on any return day. *(f)*

XXIII. THE complainant may amend his bill before the defendant or his attorney hath taken out a copy thereof, or in a ſmall matter afterwards, without paying coſts; but if he amend in a material point after ſuch copy obtained, he ſhall pay the defendant all coſts occaſioned thereby. *(f)*

XXIV. IF the defendant ſhall not appear on the day of appearance, (which in all caſes ſhall be the ſecond day after the Term to which the *ſubpœna* is returnable) an attachment ſhall be awarded and iſſued againſt him, returnable to the next Term, which being returned executed, if the defendant doth not appear, or being brought into Court upon any ſuch proceſs, ſhall obſtinately refuſe to anſwer, the complainant's bill ſhall be taken as confeſſed, and the matter thereof decreed accordingly. *(f)*

XXV. THE defendant within three calendar months after his appearance and bill filed, ſhall put in his anſwer to be filed with the Clerk in the office, at the expiration of which time, if no anſwer be filed, the Clerk, upon requeſt, ſhall iſſue an attachment, returnable to the next Court; and if no anſwer be filed upon the return of ſuch attachment executed, or a copy thereof left at the defendant's uſual place of abode, or laſt place of reſidence, the complainant's bill

(a) May 1778, *ch.* 7, *ſec.* 3. *(b)* 1787, *ch.* 9, *ſec.* 2. *(c)* ibid. *(d)* Oct. 1777, *ch.* 15, *ſec.* 2. *(e)* Oct. 1777, *ch.* 15 *ſec.* 3. 1787, *ch.* 9. *(f)* Oct. 1777, *ch.* 15, *ſec.* 4. 5. 6.

ſhall be taken as confeſſed, and the matter thereof decreed; and if the attachment be returned not executed, an attachment with proclamation, and ſuch ſubſequent proceſs of contempt may iſſue as was heretofore iſſuable out of the General Court ſitting in Chancery in like caſes. *a*

XXVI. NO proceſs of contempt ſhall iſſue unleſs the *ſubpœna* be returned ſerved by a ſworn officer, or affidavit be made of the ſervice thereof. *b*

XXVII. EVERY defendant may ſwear to his anſwer before any Judge of this or of the General Court, or any Juſtice of the Peace. *b*

XXVIII. IF the defendant does not file his anſwer within three months after the plaintiff ſhall have filed his bill, having alſo been ſerved with the *ſubpœna* at leaſt three months before the ſaid time for filing his anſwer, the plaintiff may have a general commiſſion to take depoſitions, or he may move the Court to bring in the defendant to anſwer interrogatories, at his election, and proceed on to hearing in the two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, That the Court for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing. *c*

XXIX. AFTER anſwer filed, and no plea in abatement to the juriſdiction of the Court, no exception for want of juriſdiction ſhall ever afterwards be made, nor ſhall the High Court of Chancery, or any other Court, ever thereafter delay or refuſe juſtice, or reverſe the proceedings for want of juriſdiction, except in caſes of controverſy reſpecting lands lying without the juriſdiction of ſuch Court, and alſo of infants and *femes covert*. *d*

XXX. WHEN a croſs bill ſhall be exhibited, the defendant or defendants to the firſt bill ſhall anſwer thereto, before the defendant or defendants to the croſs bill ſhall be compelled to anſwer ſuch croſs bill. *e*

XXXI. THE complainant ſhall reply, or file exceptions within two calendar months after the anſwer ſhall have been put in. If he fails ſo to do, the defendant may give a rule to reply with the Clerk of the Court, which being expired, and no replications or exceptions filed, the ſuit ſhall be diſmiſſed with coſts; but the Court may order the ſame to be retained if they ſee cauſe, on payment of coſts. *e*

XXXII. IF the complainant's Attorney ſhall except againſt any anſwer as inſufficient, he may file his exceptions, and give a rule with the Clerk to make a better anſwer within two calendar months, and if within that time the defendant ſhall put in a ſufficient anſwer, the ſame ſhall be received without coſts; but if any defendant inſiſts on the ſufficiency of his anſwer, or neglects or refuſes to put in a ſufficient anſwer, or ſhall put in another inſufficient anſwer, the plaintiff may ſet down his exceptions to be argued the next term in Court, and after the expiration of ſuch rule, or any ſecond inſufficient anſwer put in, no farther or other anſwer ſhall be received but upon payment of coſts. *f*

XXXIII. IF upon argument the complainant's exceptions ſhall be over-ruled, or the defendant's anſwer adjudged inſufficient, the complainant ſhall pay to the defendant, or the defendant to the complainant, ſuch coſts as ſhall be allowed by the Court. *f*

XXXIV. UPON a ſecond anſwer adjudged inſufficient, coſts ſhall be doubled. *f*

XXXV. IF a defendant ſhall put in a third inſufficient anſwer, which ſhall be ſo adjudged, he or ſhe may be examined upon interrogatories, and committed until he or ſhe ſhall anſwer them, and pay coſts. *f*

XXXVI. IF the defendant, after proceſs of contempt, put in an inſufficient anſwer, which ſhall be ſo adjudged, the complainant may go on with the ſubſequent proceſs of contempt as if no anſwer had been put in. *f*

XXXVII. RULES to plead, anſwer, reply, rejoin, or other proceedings not before particularly mentioned, when neceſſary, ſhall be given from month to month with the Clerk in his office, and ſhall be entered in a rule book for the information of all parties, attornies, or ſolicitors, concerned therein. *f*

XXXVIII. NO defendant ſhall be admitted to put in a rejoinder, unleſs it be filed on or before the expiration of the rule to rejoin, but the complainant may proceed to ſet his cauſe down for hearing. *f*

XXXIX. AFTER an attachment with proclamation returned, no plea or demurrer ſhall be received, unleſs by an order of Court, upon motion. *f*

(*a*) 1790, *ch.* 12, *ſec.* 3. (*b*) *Oct.* 1777, *ch.* 15, *ſec.* 8 9. (*c*) 1787, *ch.* 9, *ſec.* 2, *as altered by* 1790, *ch.* 12, *ſec.* 3. (*d*) 1787, *ch.* 9, *ſec.* 2. (*e*) *Oct.* 1777, *ch.* 15, *ſec.* 10 11. (*f*) *Oct.* 1777, *ch.* 15, *ſec.* 12 13 14 15 16 17 18 19.

XL. IF the complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may set it down with the Clerk to be argued; or if he thinks the plea good, but not true, he may take issue upon it, and proceed to trial by jury, as has been heretofore used in other causes in Chancery, where trial hath been by jury: And if thereupon the plea shall be found false, the complainant shall have the same advantages as if it had been so found by verdict at common Law. *a*

XLI. IF a plea or demurrer be over-ruled, no other plea or demurrer shall be thereafter received, but the defendant shall answer the allegations of the bill. *a*

XLII. IF the complainant shall not proceed to reply to, or set for hearing, as before mentioned, any plea or demurrer before the second Court after filing the same, the bill may be dismissed of course with costs. *a*

XLIII. UPON a plea or demurrer argued and over-ruled, costs shall be paid as where an answer is judged insufficient, and the defendant shall answer within two calendar months after, but if adjudged good, the defendant shall have his costs. *a*

XLIV. IF any defendant, after a demurrer shall have been over-ruled, shall refuse to answer, the bill shall be taken as confessed, and the matter thereof decreed. *a*

XLV. AFTER any bill filed, and before the defendant hath answered, upon oath made that any of the complainant's witnesses are aged, and infirm, or going out of the country, the Clerk may issue a commission for taking the examination of such witnesses *de bene esse*; the party praying such commission, giving reasonable notice to the adverse party, of the time and place of taking the depositions. *a*

When plaintiffs may obtain commissions de bene esse.

XLVI. WHENEVER a general commission shall issue for taking depositions upon answer and replication, six months from the time of the replication shall be allowed the parties for taking their depositions, and either party at the expiration of the said six months may set the same for hearing; nor shall any deposition taken after that time be read as evidence on the hearing, except the same was taken by consent of the parties, by special order of Court, or out of the State. *b*

After a general commission, six months allowed for taking depositions. When causes are to be set for hearing.

XLVII. THE Court in their sittings may regulate all proceedings in the office, and for good cause shewn, may set aside any dismissions, and re-instate the suits on such terms as shall appear equitable. *c*

Proceedings in the office to be regulated by the Court.

XLVIII. FOR prevention of errors in entering up the decrees and orders of the Court, the proceedings of every day shall be drawn up at large by the Clerk, and read in open Court the next day, (except those of the last day of each term, which shall be drawn up, read, and corrected the same day) and any necessary corrections made therein, when they shall be signed by the Judge of the Court, and preserved among the Records. *c*

Proceedings in Court to be read before signing.

XLIX. AND for the more entire and better preservation of the Records of the Court, when any cause shall be finally determined, the Clerk shall enter all the pleadings therein, and other matters relating thereto together, in a book to be kept for that purpose, so that an entire and perfect Record may be made thereof, and those wherein the title to lands is determined, shall be entered in separate books to be kept for that purpose only. *c*

Complete records to be made in suits determined.

L. THE Court in session, or the Judge in vacation, may grant writs of *certiorari*, for removing before the said Court the proceedings in any suit in Chancery, depending in any County or other Inferior Court, writs of *ne exeat* to prevent the departure of any defendant out of the Country, until security be given for performing the decree, and writs of injunction to stay execution of judgments obtained in any of the Courts of Common Law, subject nevertheless to the rules following: *c*

Writs of certiorari, ne exeat and injunction, how granted.

LI. NO writ of *certiorari* shall be granted to remove any suit, unless the matter in dispute be of value sufficient to entitle the High Court of Chancery to original jurisdiction therein, nor unless ten days notice of the motion be given in writing to the adverse party, nor in vacation but upon such petition and affidavit as are by Law directed for writs of *certiorari* to be granted by the District Courts; and in all cases, bond and security shall be given for performing the decree of the said High Court of Chancery, before the issuing of the *certiorari*. *c*

Rules as to writs of certiorari.

LII. WRITS of *ne exeat* shall not be granted but upon a bill filed and affidavits made to the truth of its allegations, which being produced to the Court

As to writs of ne exeat, and how they may be discharged.

(*a*) Oct. 1777, *ch.* 15, *sec.* 20, 21, 22, 23, 24, 25. (*b*) 1787, *ch.* 9, *sec.* 2.
(*c*) Oct. 1777, *ch.* 15, *sec.* 28, 29, 30, 31, 32.

in term time, or the Judge in vacation, such writ may be granted or refused as shall seem just; and if granted, he shall direct to be endorsed thereon in what penalty, bond and security shall be required of the defendant. *a*

LIII. IF the defendant shall by answer satisfy the Court that there is no reason for his restraint, or give sufficient security to perform the decree, the writ may be discharged. *a*

As to injunctions.

LIV. NO injunction shall be granted to stay proceedings in any suit at Law, unless the matter in dispute be of value sufficient to admit of original jurisdiction in the said High Court of Chancery, nor unless the Court in term time, or the Judge thereof in vacation, shall be satisfied of the plaintiff's equity, either by affidavit, certified at the foot of the bill, that the allegations thereof are true, or by other means, and shall order the same. *a*

LV. WHERE any injunction shall be granted, the Clerk shall endorse on the *subpæna* that the effect thereof is to be suspended, until the party obtaining the same shall give bond with sufficient security, in the office of the Court in which the judgment to be enjoined shall have been obtained. *b*

LVI. THE party obtaining the injunction shall then enter into bond with sufficient security, and file the same in the Clerk's office of that Court in which the proceedings at Law were had, for paying all money and tobacco and costs due, or to become due to the plaintiff in the action at Law, and also all such costs as shall be awarded against him or her in case the injunction shall be dissolved; and the Clerk shall endorse on the *subpæna* that the bond is filed. *b*

Court may appoint commissioners in cases which require reports and make them an allowance for their trouble.

LVII. IT shall be lawful for the High Court of Chancery in such cases as may require a report, which cannot be performed without great delay to other business, to employ one or more commissioners, and to cause a reasonable allowance to be taxed in the bill of costs. *c*

Method of proceeding against defendants in custody who refuse to enter their appearance.

LVIII. IF any defendant or defendants shall be in custody upon any process of contempt, and be brought into Court by virtue of a writ of *Habeas Corpus*, or other process, and shall refuse or neglect to enter his or her appearance according to the rules of the Court, or appoint an Attorney of the Court to do the same for him, the Court in such case may direct an Attorney to enter an appearance for the defendant or defendants, and thereupon such proceedings may be had, as if he or they had actually entered an appearance; but if such defendant or defendants shall be in custody at the time a decree shall be made upon refusal or neglect to enter an appearance, or to appoint an Attorney aforesaid, or shall be forth coming so as to be served with a copy of the decree, then such defendant or defendants shall be served with such copy before any process shall be taken out to compel the performance thereof; and if such defendant or defendants shall die in custody before such service, then his heir, if any real estate be sequestered or affected by such decree, or if only personal estate, his executor or administrator shall be served with a copy in a reasonable time after such death shall be known to the plaintiff, and who is such heir, executor, or administrator. *d*

How appeals may be obtained from decrees in the High Court of Chancery, where not entered when the decrees were pronounced.

LIX. WHEREAS many persons against whom decreees may have been rendered in the High Court of Chancery, may desire to appeal from such decrees, but have been hindered from doing so, at the term in which the said decrees were pronounced; *Be it enacted*, that if upon a petition to any Judge of the Court of Appeals, or the Judge of the High Court of Chancery in vacation next after the Term, when such decree shall have been rendered, for relief in such a case, it shall appear to his satisfaction, that the failure to appeal from his decree, at the time, or during the Term when it was pronounced, did not arise from any culpable neglect in the petitioner, or that upon the whole circumstances of the case, the petitioner ought to have the benefit of an appeal, it shall be lawful for the said Judge to grant the said appeal, which grant of appeal, shall be as effectual, both for staying proceedings on the said decree, and for bringing the same before the Court of Appeals for their decision, as if the same had been duly made during the Term when the said decree was pronounced.

Proceedings on decrees may be stayed during the pendency of bills of review.

LX. AND whereas upon bills of review in the said High Court of Chancery, the Judge of the said Court may think it reasonable, during the pendency of such bills, or until cause shall be shewn to the contrary, to stay proceedings on the decree, which such bills are intended to review: *Be it enacted*, that in

(*a*) *Oct.* 1777, *ch.* 15, *sec.* 33, 34, 35. (*b*) 1787, *ch.* 9, *sec.* 4. (*c*) 1788, *ch.* 69. (*d*) *Oct.* 1777, *ch.* 15. *sec.* 38.

such case, the Judge of the said High Court of Chancery, either in Term time or in vacation, when a bill praying a review of the proceedings in which a decree shall have been pronounced by the said Court, shall be presented to him, may upon such bill, and the circumstances of the case, as the same shall appear satisfactory to him, direct proceedings on such decree to be stayed, until a decree on the said bill of review shall be made, or until the further order of the said Judge; or the said Judge may refuse to grant a stay of proceedings in that case, as to him shall seem right. *Provided*, That the said Judge of the High Court of Chancery shall in either of the said cases direct such security to be given, and in such place as is usual in the cases of appeal and injunction, or such other security as to him shall seem to be reasonable.

LXI. ALL Acts and parts of Acts, within the purview of this Act, shall be, and are hereby repealed. Former Acts repealed.

LXII. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. LXV.

An Act reducing into one, the several Acts and Parts of Acts concerning the General Court, and prescribing the Manner of proceeding therein in certain cases.

[Passed the 13th of December, 1792.]

I. BE *it enacted by the General Assembly*, That the General Court of this Commonwealth shall consist of ten Judges, to be chosen and commissioned in the manner directed by the Constitution of the Commonwealth. Any three of the said Judges shall constitute a Court, except in cases of impeachment, on which occasion a majority of the whole number shall be necessary. The said Court shall be holden at the Capitol in the City of *Richmond*, or at such other place as shall be appointed by the General Assembly, or in their recess, by the Governor, with the advice of the Council of State, on any such emergency as will make the adjournment lawful. The said Court shall be holden twice in every year, namely, on the ninth day of *June* and the ninth day of *November*, or if either of those days shall be *Sunday*, then on the succeeding day, and shall continue their Session for sixteen juridical days at each Term, unless the business before them be sooner dispatched. If a sufficient number of Judges should not attend on the first day of any Term, or on any other day during the Term, any one of the said Judges may adjourn the Court from day to day, for six days successively, and if a sufficient number should not be then able to attend, all suits depending in such Court, shall stand continued over to the next succeeding Term. Every person so commissioned before he enters upon the duties of his office, shall take and subscribe the oath of fidelity to the Commonwealth, and take the following oath of office, to wit: General Court to consist of ten Judges: how chosen & commissioned. Where to be held. Terms. Regulations respecting adjournment. Oaths to be taken by the judges.

YOU shall swear that well and truly you will serve this Commonwealth in the office of a Judge of the General Court, and that you will do equal right to all manner of people, great and small, high and low, rich and poor, according to Law, without respect of persons. You shall not take by yourself, or by any other, privily or openly, any gift, fee, or reward of gold, silver, or any other thing, directly or indirectly, of any person or persons, great or small, for any matter done or to be done, by virtue of your office, except such fees or salary, as shall be by Law appointed. You shall not maintain by yourself, or other, privily or openly, any plea or quarrel, depending in the Courts of this Commonwealth. You shall not deny or delay any person of common right, for the letters or request of any person, nor for any other cause; and if any letter or request come to you contrary to Law, you shall nothing do for such letter or request, but you shall proceed to do the Law, any such letter or request notwithstanding; and finally, in all things belonging to your said office, during your continuance therein, you shall faithfully, justly, and truly, according to the best of your skill and judgment, do equal and impartial Justice, without fraud, favor, affection or partiality. So help you GOD.

Which oaths may be taken before the Executive, any Court of Record, or a Justice of the Peace, and a certificate thereof being obtained, shall enable such Judge to do all the duties of his office, and such certificate shall be recorded in the General Court, or District Court where such Judge shall first sit. If any person shall presume to sit in Court or execute the said office, without having By whom to be administered. Penalty for acting without taking the oath.

taken the ſaid oaths, he ſhall for ſuch offence forfeit the ſum of fifteen hundred dollars. *a*

Officers to be appointed by the court. Sheriff of the county in which the court ſits to attend.

II. THE ſaid Court ſhall appoint a Clerk, one or more aſſiſtant Clerks, if neceſſary, a Cryer and Tipſtaff, the firſt removable for miſbehaviour in the manner directed by the Conſtitution, the others at pleaſure; who ſhall be entitled to ſuch fees or ſalaries as ſhall be eſtabliſhed by Law. And the Sheriff, or ſo many of the Under-Sheriffs as ſhall be thought neceſſary, of the County where ſuch Court may be held, ſhall attend the ſaid Court during their Seſſions. *b*

Juriſdiction of the court

III. THE juriſdiction of the ſaid Court ſhall be general over all cauſes, matters and things at common Law, as well criminal as civil, except in ſuch caſes, as by the Conſtitution of the United States of *America*, or of this Commonwealth, or any Statute made by the Congreſs of the ſaid United States, or the General Aſſembly of this Commonwealth, are or ſhall be veſted in any other tribunal; in any of which caſes the juriſdiction of the General Court ſhall ceaſe, unleſs concurrent juriſdiction be thereto expreſsly given by this Act, or ſome other Statute. The ſaid Court ſhall have juriſdiction in all cauſes, matters and things therein depending at the commencement of this Act; and no diſcontinuance ſhall take place in any caſe whatſoever, by reaſon of the paſſing of this Act. The ſaid Court ſhall continue to have juriſdiction, in all caſes, ſuits and motions againſt public debtors and public defaulters of every denomination, for and in behalf of the Commonwealth. If the Judge of the High Court of Chancery ſhall be intereſted in any matter, which in the caſe of any other perſon would have been proper for the juriſdiction of ſuch Court, it ſhall be lawful to inſtitute ſuch ſuit in the General Court, where proceedings ſhall be had conformably to the principles and uſages of equity; and proceſs ſhall be returnable as the General Court ſhall direct; and thereafter an appeal may be had to the Court of Appeals. Writs of *ſcire facias* may be iſſued from, and be tried in the General Court, upon all judgments which have been or ſhall be obtained therein; the ſaid Court may fine Sheriffs, Deputy-Sheriffs, or Coroners, for not returning executions iſſued, or to be iſſued from the ſaid Court, and enter up judgments againſt the ſaid officers, for all money or tobacco, for which they have made or ſhall make themſelves reſpectively liable by Law upon ſuch executions; may award executions upon replevy bonds, or bonds to have goods forth-coming at the day of ſale; may quaſh executions if illegally or improvidently iſſued or executed, and award new ones; and finally, may exerciſe full juriſdiction in every other legal mode neceſſary for carrying into complete execution, all judgments heretofore given, or hereafter to be given in the ſaid Court; any Law to the contrary, or ſeeming to the contrary, notwithſtanding. The ſaid Court ſhall have power to hear and determine upon all errors and matters of fact, that ſhall or may have happened in the proceedings depending in the ſaid Court. *c*

May award writs of Mandamus to the diſtrict courts. Further deſcription of juriſdiction.

IV. THE ſaid Court ſhall have power to iſſue writs of *mandamus* to the Diſtrict Courts. *c*

V. THE ſaid Court ſhall likewiſe have juriſdiction to hear and determine motions againſt the delinquent ſubſcribers of the *Potowmac* and *James* River Companies, and for ſecurities againſt their principals; and for Sheriffs againſt their deputies and ſecurities, or either of them. *d*

May for good cauſe direct any ſuit in a diſtrict court to be tried at their own bar or in another diſtrict.

VI. FOR good cauſe ſhewn, the General Court may direct the trial of any cauſe depending before a Diſtrict Court, to be had by a jury at their own bar, for which purpoſe the Sheriff, or any other officer attending them, ſhall ſummon a Jury qualified as the Law now directs in caſes of Juries in the General Court; or may cauſe a ſuit depending in one Diſtrict to be tried in another. *e*

Suits in which judges are parties, to be removed to the General Court.

VII. UNLESS good cauſe be ſhewn to the contrary, the General Court ſhall direct a ſuit depending before a Diſtrict Court, in which a Judge of the General Court is a party, to be removed to be tried at the bar of the General Court. *f*

Juriſdiction relative to wills, adminiſtrations, &c.

VIII. THE General Court ſhall have juriſdiction and authority to hear and determine all cauſes, matters, ſuits, and controverſies teſtamentary, which ſhall be brought before the ſame, and to examine and take the proofs of wills, and to hear and determine the right of adminiſtration of the eſtates of perſons

(*a*) *Oct.* 1777, *ſec.* 2, 5. 1788, *ch.* 67, *ſec.* 115, 116. *ibid. ch.* 72, *ſec.* 3. (*b*) *Oct.* 1777, *ch.* 17, *ſec.* 6. (*c*) *ibid. ſec.* 2. 1788, *ch.* 67, *ſec.* 117. *ibid. ch.* 69, *ſec.* 7. (*d*) 1789, *ch.* 13, *ſec.* 8. (*e*) 1788, *ch.* 67, *ſec.* 119 *and* 120. (*f*) 1789, *ch.* 13, *ſec.* 29.

dying intestate, and to do all other things concerning wills and administrations, according to Law. *a*

IX. THE said Court shall have power and authority to receive *probat* of all deeds whatsoever, concerning lands in any part of this Commonwealth, to issue commissions for the privy examination of any *femæ covert*, and to admit the same to Record, as also to receive proof of any other deed or instrument of writing whatsoever, and to admit the same to Record therein, if they shall be of opinion that the same is proper to be done. A deed for lands now or at any time hereafter partly proved in the General Court, may either be fully proved there, or shall be delivered by the Clerk thereof to any person authorised to demand the same, with an endorsement of the proof made, and it may be fully proved and recorded in the Court of the District or County in which the lands lie. *a*

Deeds partly proved, may be either fully proved therein, or delivered to the parties to be fully proved in the district or county courts.

X. IF a question of Law in any criminal case be adjourned to the General Court by any District Court, the same may be therein argued and determined, although such criminal be not present. *a*

Rules respecting adjourned cases.

XI. ON the adjournment of any question of Law in any civil suit, the said Court shall hear, determine, and certify such their determination on the same, to the Court from whence the question was adjourned; but no costs shall be incurred on any adjourned question. *b*

XII. ALL original process to bring any person or persons to answer in any action or suit, information, bill or plaint, in the said Court, and all subsequent process thereon, all attachments or other writs of what nature soever awarded by the said Court, shall be issued and signed by the Clerk of the said Court in the name of the Commonwealth, shall bear teste by the Clerk, and be returnable on the first day of the next succeeding Court, except *subpœnas* for witnesses; and all such process may be executed at any time before the return day, except in such cases wherein it is otherwise directed by Law. *c*

Rules respecting process

XIII. THE appearance day to all writs and process awarded by the said Court, shall be according to the direction thereof. *d*

The court to direct the appearance day.

XIV. THE Sheriff for the time being of the County in which the General Court shall be held, shall before every meeting of the General Court, summon twenty-four Freeholders of this Commonwealth, qualified as the Law directs for Grand Jurors, to appear at the succeeding General Court on the first day thereof, which the Sheriff is hereby empowered to do, as well without his County as within the same, and the said twenty-four men, or any sixteen of them shall be a Grand Jury, who shall be sworn to enquire of and present all offences against the Commonwealth, which are cognizable in the said Court. And if an indictment shall be found or presentment made of any such offence, the like proceedings shall be thereupon had to bring the party accused before the Court, as on indictments and presentments in the District Courts, having regard to the nature of the offence.

Grand jury to be summoned.

Proceedings on indictments, presentments, &c.

XV. THE rules and proceedings in the General Court, in all cases, not otherwise specially directed, shall be the same as in the District Courts in similar cases, and the said Court shall have the same power of awarding and refusing costs, as the District Courts have in like cases.

XVI. THE keeper of the public jail, shall constantly attend the General Court, and execute the commands of the Court. *e*

Keeper of the public jail to attend the court.

XVII. THE Clerk of the General Court shall annually before the last day of *January*, transmit to the Sheriff of each County within this Commonwealth, a list of all fines imposed by the said Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default as is or shall be directed in case of public taxes, being allowed in their accounts for insolvents, and five *per centum* commissions; and the said Clerk shall transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account. *f*

The clerk to transmit lists of fines imposed by the court to the sheriffs.

XVIII. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and are hereby repealed.

Former acts repealed.

XIX. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

[*a*] 1789, *ch.* 13, *sec.* 4 8 9 27. [*b*] 1788, *ch.* 67, *sec.* 17. [*c*] *Oct.* 1777, *ch.* 17, *sec.* 7. 1788, *ch.* 67, *sec.* 23 118. [*d*] 1789, *ch.* 13, *sec.* 31. [*e*] *Oct.* 1777, *ch.* 17, *sec.* 72. [*f*] *Oct.* 1777, *ch.* 17, *sec.* 75. 1788, *ch.* 67, *sec.* 132.

CHAP. LXVI.

An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 12th of December, 1792.†]

The commonwealth divided into districts, and a superior court to be held in each at certain places and on certain days.

BE *it enacted by the General Assembly*, That this Commonwealth shall be divided into Districts, and a Superior Court holden in each, in the manner, and at the times and places herein after mentioned; that is to say:—The Counties of *Henrico*, *Hanover*, *Chesterfield*, *Goochland*, and *Powhatan*, shall compose one District, and a Court shall be holden for the same at the Capitol in the City of *Richmond*, on the first day of *April*, and the first day of *September* in every year; the Counties of *James City*, *Charles City*, *New-Kent*, *Surry*, *Gloucester*, *Mathews*, *York*, *Warwick*, and *Elizabeth City*, shall compose another District, and a Court shall be holden for the same at the City of *Williamsburg*, in the former Capitol, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Richmond*, *Westmoreland*, *Lancaster*, and *Northumberland*, shall compose another District, and a Court shall be holden for the same at *Northumberland* Court-house, on the first day of *April*, and first day of *September*, in every year; the Counties of *Essex*, *Middlesex*, *King & Queen*, and *King William*, shall compose another District, and a Court shall be holden for the same at *King & Queen* Court-house, on the fifteenth day of *April*, and fifteenth day of *September*, in every year; the Counties of *Spottsylvania*, *Caroline*, *King George*, *Stafford*, *Orange*, and *Culpeper*, shall compose another District, and a Court shall be holden for the same at *Fredericksburg*, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Frederick*, *Berkeley*, *Hampshire*, *Hardy*,(*a*) *and Shenandoah*, shall compose another District, and a Court shall be holden for the same at *Winchester*, on the fifteenth day of *April*, and the first day of *September*, in every year; the Counties of *Augusta*, *Bath*, *Rockbridge*, *Rockingham*, and *Pendleton*, shall compose another District, and a Court shall be holden for the same at *Staunton*, on the first day of *April*, and the first day of *September*, in every year; the Counties of *Albemarle*, *Louisa*, *Fluvanna*, and *Amherst*, shall compose another District, and a Court shall be holden for the same at *Charlottesville*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Fairfax*, *Fauquier*, *Loudoun*, and *Prince William*, shall compose another District, and a Court shall be holden for the same at *Dumfries*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Harrison*, *Monongalia*, *Ohio*, and *Randolph*, shall compose another District, and a Court shall be holden for the same at *Monongalia* Court-house, on the third day of *May*, and the twentieth day of *September*, in every year; the Counties of *Washington*, *Russell*, and *Wythe*, shall compose another District, and a Court shall be holden for the same at *Washington* Court-house, on the second day of *May*, and the second day of *October*, in every year; the Counties of *Norfolk*, *Isle of Wight*, *Princess Anne*, *Nansemond*, and *Southampton*, shall compose another District, and a Court shall be holden for the same at *Suffolk*, on the twelfth day of *May*, and the twelfth day of *October*, in every year; the Counties of *Prince George*, *Sussex*, *Dinwiddie*, *Nottoway*, and *Amelia*, shall compose another District, and a Court shall be holden for the same at *Petersburg*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Brunswick*, *Greensville*, *Lunenburg*, and *Mecklenburg*, shall compose another District, and a Court shall be holden for the same at *Brunswick* Court-house, on the twenty-ninth day of *April*, and the twenty-ninth day of *September*, in every year; the Counties of *Prince Edward*, *Buckingham*, *Charlotte*, *Halifax*, and *Cumberland*, shall compose another District, and a Court shall be holden for the same at *Prince Edward* Court-house, on the first day of *April*, and the first day of *September*, in every year; the

† 1788, ch. 67. *See acts of* 1795, *ch.* 15. [*a*] *By act of* 1796, *pa.* 41, *Hampshire*, *Hardy & Pendleton formed into a separate district, & a court to be held on* 5*th May and* 5*th Sept.—and by another act of* '96, *pa.* 21, *Dist. Ct. of Dumfries to be held on* 18*th May and Oct. and may sit* 15 *days—Winchester Dist. Ct. to be held on* 15*th April and* 29*th Sept.—Morgan Town Dist. Ct. on* 15*th May & Sept.—Brunswick Dist. Ct. on* 2*d May and Oct. By the above mentioned act of* '96, *pa.* 21, *Fredericksburg*, *Winchester and Petersburg may also sit* 15 *days.*

Counties of *Bedford*, *Campbell*, *Franklin*, *Pittſylvania*, *Patrick*, and *Henry*, ſhall compoſe another Diſtrict, and a Court ſhall be holden for the ſame at *New-London*, in the late Court-houſe of *Bedford* County, now belonging to *James* and *John Callaway*, who have agreed to put the ſame in repair, at their own expenſe, for the uſe of the Diſtrict Court, ſo to be holden in *New-London*, on the fifteenth day of *April*, and the fifteenth day of *September*, in every year; the Counties of *Accomack*, and *Northampton*, ſhall compoſe another Diſtrict, and a Court ſhall be holden for the ſame at *Accomack* Court-houſe, on the fourteenth day of *May*, and the fourteenth day of *October*, in every year; the Counties of *Greenbrier*, *Botetourt*, *Montgomery*, (*a*) and *Kanawha*, ſhall compoſe another Diſtrict, and a Court ſhall be holden for the ſame at *Lewiſburg* in *Greenbrier*, and *Botetourt* Court-houſe, alternately, on the eighteenth day of *May*, and the eighteenth day of *October*, in every year, until the Proprietor of the *Sweet Springs* ſhall erect a ſufficient Court-houſe and Priſon for the purpoſes of this Act, after which time the *Sweet Springs* ſhall become the Seat of the Diſtrict Court. And if any of the ſaid ſeveral days be *Sunday*, the Courts ſhall in that caſe reſpectively begin on the ſucceeding day. Each Court ſhall ſit, if buſineſs require it, twelve days ſucceſſively, *Sundays* excluſive (unleſs ſuch ſitting ſhall interfere with ſome other Diſtrict Court in the ſame circuit) and no longer, and ſhall be a Court of Record. (*b*)

Length of the Seſſions.

II. THOSE Counties which ſhall hereafter be made, ſhall, if taken from one County, or from two or more Counties lying in the ſame Diſtrict, remain in the Diſtrict to which they formerly belonged; and if taken from two or more Counties lying in different Diſtricts, the Counties ſo to be made, ſhall be annexed (unleſs it be otherwiſe declared by the Legiſlature) to ſuch of the Diſtricts in which the old Counties lie, as ſhall be approved by the Executive, ſubject to the reviſion of the General Aſſembly. (*c*)

Counties hereafter made to what diſtricts to be annexed.

III. IT ſhall be the duty of two of the Judges of the General Court to attend each Diſtrict Court at their reſpective Terms; and the ſaid two Judges ſhall conſtitute a Court for ſuch Diſtrict. In caſe of a temporary appointment of a Judge made by the Executive, ſuch Judge ſhall take the place of him in whoſe ſtead he was appointed: *Provided nevertheleſs*, that if any one of the ſaid Judges ſhall not attend the Court, to which he ſhall be ſo allotted, in ſuch caſe the other Judge ſhall conſtitute a Court, under the reſtrictions herein-after mentioned. (*d*)

Two of the judges of the General Court to attend each Diſtrict Court.

IV. EACH Judge of the General Court, beſides the oaths required by Law to be taken by him as ſuch, ſhall take another oath as Judge of the Diſtrict Courts, in the ſame form as that preſcribed by Law for a Judge of the General Court, changing the words "General Court," for "Diſtrict Courts;" which oaths may be taken before the Executive, any Court of Record, or a Juſtice of the Peace, and a certificate thereof being obtained, ſhall enable him to do all the duties of office, and to act as a general Conſervator of the Peace throughout the Commonwealth. Such certificate ſhall be recorded in the General Court, or Diſtrict Court where ſuch Judge ſhall firſt ſit. Any perſon appointed a Judge of the General Court may act as a Judge of the Diſtrict Courts, without having taken the oaths as a Judge of the General Court. Any Judge who ſhall ſit as a Judge of a Diſtrict Court, without having taken the oaths herein required to be taken by him, ſhall forfeit the ſum of fifteen hundred dollars, to be recovered by action of debt or information in any Court of Record, one half to the uſe of the Commonwealth, and the other half to the uſe of the Informer. (*e*)

Each judge of the General Court to qualify as a judge of the Diſtrict Courts.

And may act as ſuch without qualifying as a judge of the General Court.

Penalty for acting as a judge of the Diſtrict Courts without qualifying as ſuch.

V. IF neither of the Judges ſhall attend on the firſt day of any Diſtrict Court, ſuch Court ſhall ſtand adjourned from day to day until a Court ſhall be made, if that ſhall happen before four of the clock in the afternoon of the ſixth day. If a Court ſhall not ſit in any Term, or ſhall not continue to ſit the whole Term, or before the end of the Term ſhall not have heard and determined all matters ready for their deciſion, all ſuch ſuits and things depending in Court and undecided, ſhall ſtand continued to the next ſucceeding Term. (*f*) If from any cauſe the Court ſhall not ſit on any day in a Term after it ſhall have

Regulations reſpecting adjournment of the courts and continuance of cauſes when they do not ſit or do not finiſh the buſineſs.

(*a*) *Montgomery added* 1789, *ch.* 56. (*b*) *Some lengthened by act of* 1796, *ch.* 21. (*c*) 1788, *ch.* 67, *ſec.* 3. (*d*) 1788, *ch.* 67, *ſec.* 4, *much altered: by a ſubſequent act allotments were directed.* (*e*) 1788, *ch.* 67, *ſec.* 6, 7. 1789, *ch.* 13, *ſec.* 12. (*f*) 1788, *ch.* 67, *ſec.* 8, 9.

been opened, there shall be no discontinuance; but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. *a*

Their jurisdiction.

VI. THE jurisdiction of the said Courts respectively, shall be over all persons, and in all causes, matters or things at common Law, which were cognizable in the General Court† on the twenty-second day of *December*, one thousand seven hundred and eighty eight, and which shall amount to one hundred dollars, or three thousand pounds of tobacco, whether brought before them by original process, by *habeas corpus*, appeal, writ of *error, superfideas, mandamus, certiorari*, to remove proceedings on a forcible entry or detainer, or for any other purpose, or by any legal ways or means whatsoever, except in the cases herein after mentioned, and such cases as by the Constitution of this Commonwealth, or some particular Statute heretofore made or hereafter to be made, are or shall be exclusively vested in, or reserved to the General Court. They shall also have the same jurisdiction concerning mills, wills, roads, and letters of administration, public debtors, whether Sheriffs or others, and the recording of deeds for lands and other property within the District, and *caveats*, as the General Court heretofore had by Law, allowing the person entering any *caveat* to return a certified copy thereof, from the Register to the District Court office, within thirty days from the time of entering the said *caveat*. And the said Courts shall hear and determine all controversies touching the same. *Provided also*, That writs of *habeas corpus, appeal, error, superfedeas, mandamus* and *certiorari*, and controversies concerning mills, wills, roads, *caveats*, and letters of administration, shall not be heard or determined by any District Court, unless such writ of *error, superfedeas, mandamus*, and *certiorari*, relate to some record or proceeding within the said District, or the person praying the *habeas corpus*, or the mills, or roads, or lands for which the *caveats* have been instituted be within the same, or the wills or letters of administration be cognizable by the Court of some County within the said District. Those cases in which the Court of Admiralty heretofore had jurisdiction by Law, and which are not taken away by the Constitution of the United States, are hereby transferred to the District Courts to be proceeded on as the Law requires in the said Court of Admiralty. *a*

Mode of trial.

VII. THE Court shall have power to try all issues and enquire of damages by a Jury in all causes before them, and to determine all questions concerning the legality of evidence and other matters of Law which may arise; for which trial the Court shall cause the Sheriff attending them, to summon, impannel, and return Jurors. *a*

Jurors to be summoned and impannelled.

Further description of jurisdiction.

VIII. THE Court shall hear and determine motions against Sheriffs or other Officers, and Attornies at Law for refusing to pay money due to Clients, for the Directors of the *James* River and *Potowmac* Companies, and for securities against their principals, or against each other for contribution, in all cases and according to the rules prescribed by Law. *a*

New or difficult questions may be adjourned to the General Court.

IX. THE Court, when a question new or difficult arises, may adjourn any matter of Law to the General Court, or any party thinking himself aggrieved by the judgment of the District Court, may appeal thereupon as of right, or obtain a writ of *error* thereto from the Court of Appeals, not of right, but at the discretion of the Court. *b*

X. ON an adjournment of a question to the General Court, or an appeal or writ of *error* to the Court of Appeals, the same proceedings shall be had as in cases heretofore going from the General Court to the Court of Appeals, but no costs shall be incurred on any adjourned question. *b*

The District Courts in Term time, or any judge in vacation may grant injunctions to judgments obtained therein.

XI. EACH of the said District Courts in Term time, or any Judge thereof in vacation, shall, and may have and exercise the same power of granting injunctions to stay proceedings on any judgment obtained in any of the said District Courts, as is now had and exercised by the Judge of the High Court of Chancery in similar cases, and the said District Courts may proceed to the dissolution or final hearing of all suits commencing by injunction, under the same rules and regulations as are now prescribed by Law for conducting similar suits in the High Court of Chancery. *c*

† *Orphans and Guardians altogether omitted, in being doubtful whether the General Court had any controul over them. See note of Revisors.*

(*a*) 1788, *ch.* 67, *sec.* 10, 11, 12, 13, 14. (*b*) *Ib. sec.* 16, 17.

(*c*) *It was decided by the General Court that this clause can only be executed by Judges in Chancery, constituted in manner prescribed by the Constitution. See the case of Kamper and Hawkins adjudged from Dumfries District.*

Vacancy in the office of clerk, how to be supplied.

XII. WHENSOEVER there shall be a vacancy in the office of Clerk of any District Court, it shall be lawful for a majority of the Judges of the General Court to appoint, by commission under their hands and seals. *Provided*, that when such vacancy shall happen during the Session of a District Court, or the Judges of the General Court shall neglect to supply any vacancy until the ensuing Session of the District Court in which the vacancy shall be, it shall be lawful for the Judges attending such District Court to appoint a Clerk by commission under their hands and seals, which shall be as valid and effectual as if granted by a majority of the Judges of the General Court. And where the Clerk of any District Court cannot attend, it may be lawful for the Judge or Judges of such Court, to appoint a Clerk *pro tempore*. *a*

When clerks pro tempore may be appointed.

Every clerk to take the oaths of fidelity and of office, and to enter into bond with security for performance of his duty.

XIII. EVERY person appointed Clerk of any District Court, having taken the oath for giving assurance of fidelity to the Commonwealth, and the oath required to be taken by Clerks of Courts, adapting the same to the District Court, shall thenceforth be enabled to execute the duties of his office; which oaths may be taken by the Clerks respectively, before any Court of Record in the Commonwealth, and a certificate thereof shall be entered of Record in his District, wherein at the first Session after his appointment, he shall moreover enter into bond, with sufficient security, in the penalty of ten thousand dollars, payable to the Governor or Chief Magistrate, and his Successors, with condition for the faithful performance of his duty; which bond may be put in suit for the benefit, and at the costs of any person or persons aggrieved by the non-feisance or mis-feisance of the Clerk, as often as there shall be occasion, until the whole penalty shall be recovered or levied. *a*

Tenure of their office. How removable. To reside and keep their offices at the District courthouses; their fees.

XIV. EACH Clerk shall hold his office during good behaviour, shall be removable on conviction upon an indictment or information, for mis-user or non-user in office, and shall reside and keep his office at the District Court-house of which he is Clerk; but when it is held alternately at different Court-houses, then he shall keep his office at either the one or the other Court-house, as he may think best. The Clerks fees shall be the same with those of the County Courts for similar services, and for all other services, the same as those of the Clerk of the General Court, and shall be collected and accounted for in the same manner, and under the same penalties, as those of the Clerks of the County Courts now are. *a*

Taxes on judgments and process.

XV. A TAX of one dollar shall be, and is hereby imposed on all final judgments in the District Courts, which shall be paid by the party obtaining the same, to the Clerk of the Court, before such judgment shall be entered, and taxed in the bill of costs, and in all other respects the tax on process in the District Courts shall be the same, and be taxed in the bill of costs in like manner as is by Law directed, and the taxes on appeals from the District Courts, and also on Attornies practising therein, shall be the same; to be collected, accounted for, and paid by the Clerks respectively, in the like manner, and subject to the same mode of proceeding against them for default, as is directed for the like taxes in the County Courts. But no tax shall be demanded on the judgments rendered on any appeal, writ of *error*, *superscdeas*, special verdict, or case agreed, transferred from the General Court to the District Courts. *b*

Criminal jurisdiction. In what cases two judges shall be necessary to constitute a court.

XVI. THE District Courts to be held as aforesaid, shall have full power to hear and determine all treasons, murders, felonies, and other crimes and misdemeanors, committed within their district, and which shall be brought before them, under the regulations hereinafter prescribed; that is to say: In all criminal cases where the charge shall be of such a nature as in case of conviction, to subject the party to capital punishment, or burning in the hand, two Judges shall be necessary to proceed upon the trial of the issue, whether in Law or fact. *Provided always*, That if only one Judge shall attend the said Court, and any prisoner shall notwithstanding petition to be brought to trial, in such case, one Judge shall constitute a Court for such purpose. When two Judges shall attend, all questions arising in criminal cases, and submitted to the Court, in case the Court shall be divided, shall be considered as adjudged in favor of the criminal; and if the Court shall be divided upon the final judgment or sentence, judgment shall be entered up in favor of the prisoner, and he forthwith discharged. When two Judges do not attend, all criminal cases depending in such court, and not tried upon the consent and petition of the prisoner, where the punishment shall be death, or burning in the hand, shall stand continued o-

Proviso. When the court is divided in a criminal case, the question to be considered as adjudged in favor of the criminal.

Mode of proceeding in criminal cases when two judges do not attend.

(a) 1783, *ch.* 67, *sec.* 19, 20, 21. *(b)* 1788, *ch.* 67, *sec.* 17, 127.

ver to the next Court to be holden for that district; and if two Judges do not attend at such next Court, every prisoner whose cause has been so continued over, shall be bailed as of right, which bail shall be according to the degree of the offence, and the ability of the prisoner. And if such prisoner shall appear on the first day of the next Term, and render himself pursuant to his recognizance, and there shall not be a sufficient Court to try such prisoner, on or before the third day of that Court, such prisoner shall be forthwith discharged.

Certain cases excepted.

Provided always, That any one Judge may hear and determine a motion in behalf of the Commonwealth, for giving judgment and awarding execution against any person convicted of a capital offence, where such criminal shall escape between the conviction and the sentence; or against any person attainted of a capital offence, where the day of execution shall have passed, and no pardon or reprieve shall have been granted. A District Court may adjourn a question of Law in any criminal case, to the General Court, with the consent of the criminal, which may be there argued and decided, although such criminal be not present. *a*

Questions of law in criminal cases may be adjourned to the General Court.

A Jailor to be appointed in each district.

District Jails to be subject to the direction of the judges.

XVII. A PUBLIC Jailor shall be from time to time appointed to each District by the Governor and Council, who shall give bond and security to the Governor and his successors, in the penalty of fifteen hundred dollars, with condition for the faithful performance of the duties of his office, and shall be amenable to the Judges of the District Court; and the said Judges shall have the direction of the District Jail, and they are hereby authorised and required, from time to time, to order and direct such allowance to be made for the prisoners confined therein, and to fix what shall be paid to the keeper thereof for his trouble, as the said Judges shall think reasonable, and moreover to certify such allowance, from time to time, to the Auditor, who is hereby directed to debit the same, and give a warrant upon the Treasurer for the payment thereof. *Provided nevertheless*, That whenever the Jail of a County is used as a District Jail, the keeper of the County Jail, and no other, shall act as keeper of the Jail of the said District. The Jailor during his continuance in office, shall be exempted from serving in the militia, and on juries. The keeper of the District Jail shall constantly attend the said Court, and execute the commands of the said Court from time to time, and take or receive into his custody, all persons by the Court to him committed on original or mesne process, or in execution in any civil suit, or for any contempt to the Court, and him or them safely keep until thence discharged by due course of Law, and may demand of every such prisoner the legal fees for diet and care; but where such prisoner is so poor as not to be able to support him or herself in prison, the Jailor shall be allowed by the public, seventeen cents *per* day, for the maintenance of every such poor prisoner, and no security shall be demanded of him or her, nor shall he or she be detained for such prison fees. The Keeper of the District Jail, by order of any two Justices of his County, may impress guards for the safe keeping of all prisoners in his custody, to be paid by the public, a like sum and in like manner, as is by Law allowed for guards impressed by Sheriffs for securing prisoners. The fee to the Sheriff of the County, and to the District Jailor for keeping and dieting any such prisoner, shall be seventeen cents *per* day. *b*

The judges to make allowances to the jailors.

Keepers of county jails, used as district jails, to act as keepers of the district jails.

District jailors to be exempted from serving in the militia and on juries.

Poor prisoners not to be detained for non-payment of prison fees.

Guards may be impressed for the district jails.

Fees for keeping and dieting prisoners.

Prison rules to be assigned.

XVIII. PRISON rules and bounds shall be assigned by the District Courts.

Judgments of the District Courts in criminal cases, by whom to be executed.

XIX. TO prevent misconstruction, it is hereby declared, that the Sheriff of the County in which any District Court shall sit, shall execute all judgments rendered by such Court in any criminal case, provided such judgments are by Law to be executed in the said County. Every District Court may make a reasonable allowance to the Sheriff attending the same for his trouble, as well for his services heretofore rendered, as those in future to be by him performed, to be paid as the Cryer of the General Court; and the Auditor of Public Accounts is hereby required to issue warrants in favor of such persons as have heretofore acted as Cryers in the several District Courts, agreeable to the certificates of the Clerks of the said Courts, to be paid in the same manner as the Cryer of the General Court. *b*

Allowances to be made to sheriffs attending the courts.

The Court of Appeals to direct the forms of writs.

XX. THE Judges of the Court of Appeals shall direct the forms of writs, from time to time, in such manner as shall seem advisable, and until an altera-

(*a*) 1788, *ch.* 67. 1789, *ch.* 13. (*b*) 1788, *ch.* 67. *sec.* 96, 97, 98, 99, 100, &c. 1779, *ch.* 19. 1791, *ch.* 26. 1796, *ch.* 22. 1789, *ch.* 13, *sec.* 32, 36.

tion be made therein, the forms shall be as nearly as may be, assimilated to those now used in the General Court. *a*

Directions concerning process.

XXI. ALL writs, summonses, and other legal process, shall be issued by the Clerk, bear teste in his name, and be returnable to the next Court to be holden in the District, except in the case of *subpœnas* for witnesses, which may be returnable immediately, if issued in Term time, or on any day of the Term. *a*

Writs of habeas corpus in what manner to be granted.

How to be obtained by any committed to a county jail in a civil action.

XXII. WRITS of *habeas corpus* may be granted by the said Courts, pursuing in all respects the Act, intituled, "*An Act directing the mode of suing out and executing writs of habeas corpus.*" And where any person shall be committed in any civil action to the Jail of any County or Corporation, for any cause or matter cognizable in the District Courts, it shall be lawful for the Clerk of the Court of the District wherein such commitment shall be, and he is hereby required, upon the application of such person, and a certificate of his or her being actually in Jail, to issue a writ of *habeas corpus cum causa*, to remove the body of such prisoner into the District Jail, and the cause of his commitment into such District Court, returnable on the first day of the succeeding Court, if issued in vacation, on the last of the Term, if sued out whilst the Court is sitting. *b*

Process in suits against the Governor, Councillors, Judges, & Sheriffs.

XXIII. IN all actions or suits which may be commenced against the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, instead of the ordinary process, a summons shall issue to the Sheriff or other proper Officer, reciting the cause of action, and summoning such Defendant to appear and answer the same on the proper return day in the next District Court; and if such Defendant being summoned, or after a copy shall have been left at his house ten days before the return day, shall not appear to answer the same, the Court shall proceed against such Defendant, in the same manner as if he had been taken upon a *capias ad respondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the Sheriff of that County in which the Defendant in any such case resides, that no effects, or not sufficient are to be found in his bailiwick, to satisfy the said judgment, a *capias ad satisfaciendum* may be issued as in other cases. *c*

No person to be sued out of the district in which he resides until a non est inventus has been returned on a capias issued against him in such district.

XXIV. NO writ of *capias ad respondendum* shall be issued against any person in any other District than that in which he resides, until a *non est inventus* has been returned in his or her District, upon a *capias* issued against such Defendant in the same suit; and every writ issued contrary thereto, shall be void, and dismissed on the first calling thereof: *Provided nevertheless*, that where two or more persons are or shall be jointly, or jointly and severally bound for the performance of any contract, or for the payment of money or tobacco, by bond, covenant or otherwise, it shall be lawful to prosecute such persons jointly, in whatever District either of them may reside, and process shall be issued and served accordingly in any County or District wherein the non-resident Defendant or Defendants may be found; and where the bond or other writing on which such suits shall be founded, shall be filed in the General Court, in a County or other Inferior Court, in the Court of one District, and Oyer thereof, shall be demanded by the Defendant or Defendants to a suit in another District, it shall be sufficient for the Plaintiffs, in the last mentioned suit, to file a copy of the bond or writing, attested by the Clerk of the Court, wherein the same is filed, and the Defendant or Defendants shall be obliged to plead thereto in like manner, as if the original bond or writing was filed, and such copy shall be admitted as evidence on the trial. If, however, the Defendant or Defendants shall in such case plead that the original bond or writing is not his or their deed, the Clerk of the Court having such original paper in his custody, shall, on being summoned as a witness, attend with the same at the trial of the issue, for the inspection of the Jury. *c*

In what cases copies of bonds may be filed and defendants in suits thereon shall plead thereto.

In certain suits plaintiff must indorse on the writ the true species of action.

XXV. IN all actions to recover the penalty for breach of any Penal Law not particularly directing special bail to be given, in actions of slander, trespass, assault and battery, actions on the case for trover or other wrongs, and all personal actions, except such as shall be herein after particularly mentioned, the Plaintiff or his Attorney shall, on pain of having his suit dismissed with costs, indorse on the original writ or subsequent process, the true species of action, that the Sheriff, to whom the same is directed, may be thereby informed, whether bail is to be demanded on the execution thereof; and in the cases before men-

(a) 1788, *ch.* 67, *sec.* 22, 23. *(b)* *Oct.* 1777, *ch.* 17, *sec.* 53. 1788, *ch.* 67, *sec.* 25, 26. *(c)* *Amended so as to allow writs from the Court of one district to be served in another district.*

[illegible] the Sheriff may take the engagement of an Attorney pending in the Court, instead of the writ, that he will appear for the Defendant or Defendants, and his appearance shall be entered with the Clerk in the office, on the rule day after the end of the Court to which such writ is returnable, which shall be declared to be the appearance day in all proceedings to the end of the next succeeding. And with such engagement of an Attorney, [illegible] to the Sheriff, he shall nevertheless be released from custody of the Defendant or Defendants to prison, or detaining him in his custody for want of [illegible], but the Sheriff in such case shall return the writ executed, and if the Defendant or Defendants fail to appear thereto, there shall be the like proceedings against him only, as is herein after directed against Defendants, and there appearance bail, where such is taken. *Provided always*, that any Judge of the Supreme Court in actions of trespass, assault and battery, trover and conversion, and in all cases where, upon proper affidavit or affirmation it shall appear to him proper that the Defendant or Defendants should give appearance bail, may, and he is hereby authorised to direct such bail to be taken on issuing the writ or the original writ, or subsequent process; and every Sheriff shall govern himself accordingly. *a*

In certain cases a Judge may direct bail to be taken.

Proceedings on the Sheriff's return of bail.

XXVI. IN all actions of debt, founded upon any writing obligatory, bill or note in writing for the payment of money or tobacco, all actions of *covenant* and *detinue*, in which cases the true species of action shall be indorsed on the writ as before directed, and that appearance bail is to be required, the Sheriff shall return on the writ, the name of the bail by him taken, and a copy of the bail bond to the Clerk's office, before the day of appearance; and if the Defendant shall fail to appear accordingly, or shall not give special bail, being ruled thereto by the Court, the bail for appearance may defend the suit, and shall be subject to the same judgment and recovery as the Defendant might or would be subject to, if he had appeared and given special bail; and in actions of *detinue*, the bail piece shall be so changed, as to subject the bail to the restitution of the thing, whether animate or inanimate, sued for, or the alternative value, as the Court may adjudge. *b*

When the bail may defend the suit.

How bail shall be given in detinue.

Remedy against Sheriff neglecting to take sufficient bail.

XXVII. AND if the Sheriff shall not return bail, and the copy of the bail bond, or the bail returned shall be adjudged insufficient by the Court, and the Defendant shall fail to appear and give special bail, if ruled thereto, in such case the Sheriff may have like liberty of defence, and shall be subject to the same recovery as is provided in the case of appearance bail. And if the Sheriff depart this life, before judgment be confirmed against him, in such case the judgment shall be confirmed against his Executors or Administrators, or if there shall not be a certificate of *probat* or administration granted, then it may be confirmed against his estate, and a writ of *fieri facias* may in either case be issued. But the Plaintiff shall object to the sufficiency of the bail during the sitting of the Court next succeeding that to which the writ is returnable, or in the office, on the first or second rule day, and at no time thereafter. And all questions concerning the sufficiency of bail so objected to in the office, shall be determined by the Court at their next succeeding Term; and in all cases where the bail shall be adjudged insufficient, and judgment entered against the Sheriff, he shall have the same remedy against the estate of the bail as against the estate of the Defendant. *b*

Exceptions to bail, when to be made, and determined.

Sheriff's remedy against bail adjudged insufficient.

Office judgments, when set aside.

XXVIII. AND every judgment entered in the office against a Defendant and bail, or against a Defendant and Sheriff, shall be set aside, if the Defendant at the succeeding Court shall be allowed to appear without bail, put in good bail, being ruled so to do, or surrender himself in custody, and shall plead to issue immediately. The Court shall regulate all other proceedings in the office during the preceding vacation, and rectify any mistakes or errors which may have happened therein. *b*

Errors in the office, how rectified.

Remedy of the bail and Sheriff against the Defendant's estate.

XXIX. IN every case where judgment shall be confirmed against any Defendant or Defendants and bail, or the Sheriff, his Executors, Administrators, or estate, as aforesaid, the Court upon motion of such bail, or of such Sheriff, his Executors or Administrators, or any other person on behalf of his estate, may order an attachment against the estate of such Defendant or Defendants, returnable to the next succeeding Court, and upon the execution and return of such attachment, the Court shall order the estate seized, or so much thereof as will be sufficient to satisfy the judgment and costs, and all costs accruing under the attachment; to be sold as goods taken in execution upon a *fieri facias*, and

(*a*) 1788, *ch.* 67, *sec.* 27. (*b*) *Ib. sec.* 28, 29.

out of the money such judgment and costs shall be satisfied, and the surplus, if any, restored to the Defendant or Defendants when required. *a*

How special bail may be taken in the country & excepted to.

XXX. ANY Judge of the General Court, when the District Court is not sitting, or any Justice of the Peace, may take recognizance of special bail in any action therein depending, which shall be transmitted by the person taking the same, before the next succeeding Court, to the Clerk of the said Court, to be filed with the papers in such action, and if the Plaintiff or his Attorney shall except to the sufficiency of the bail so taken, notice of such exception shall be given to the Defendant or his Attorney, at least ten days previous to the day on which such exception shall be taken, and if such bail shall be adjudged insufficient by the Court, the recognizance thereof shall be discharged, and such proceedings shall be had, as if no such bail had been taken. *a*

Surrender of principal and proceedings thereupon.

XXXI. EVERY special bail may surrender the principal before the Court where the suit hath been or shall be depending, at any time either before or after judgment shall be given; provided such surrender be made before the appearance day of the first *scire facias* against the bail returned executed, or of the second returned *nihil*, but in either case the special bail shall pay the costs of the said *scire facias*, and judgment for the same shall be entered against him accordingly. Upon such surrender, the bail shall be discharged, and the Defendant or Defendants shall be committed to the custody of the Sheriff or Jailor attending such Court, if the Plaintiff or his Attorney shall desire the same, or such special bail may discharge himself or herself by surrendering the principal or principals to the Sheriff of the County where the original writ was served, and such Sheriff shall receive such Defendant or Defendants, and commit him, her, or them, to the Jail of his County, and shall give a receipt for the body or bodies of such Defendant or Defendants, which shall be by the bail transmitted to the Clerk of the Court where the suit is or was depending. When such surrender after judgment shall be to the Sheriff, he shall keep such Defendant or Defendants in his custody, in the same manner, and subject to the like rules, as are provided for debtors committed in execution, for the space of twenty days, unless the Creditor, his Attorney, or Agent, shall sooner consent to his, her, or their discharge. The bail shall give immediate notice of such render to the Creditor, his Attorney, or Agent, and if within the said twenty days, such Creditor, his Attorney, or Agent, shall not in writing charge the Debtor or Debtors in execution, he, she, or they shall be forthwith discharged out of custody, but the Plaintiff or Plaintiffs may nevertheless afterwards sue out any legal execution against such Debtor or Debtors, without suing out a *scire facias*. *a*

Method of proceeding against a defendant in custody.

XXXII. WHEN the Sheriff or other proper officer, shall return on any original or mesne process, that he hath taken the body of any Defendant and committed him to prison for want of appearance bail, the Plaintiff may proceed, and the Defendant make his defence, in like manner as if his appearance bail had been entered and accepted, but the Defendant shall not be discharged out of custody until he shall put in good bail, or the Plaintiff shall be ruled by the Court to accept an appearance without bail, and where any Defendant after appearance entered, shall be confined to prison, the Plaintiff may file his declaration, give a rule to plead, and deliver copies of such declaration and rule to the Defendant or his Attorney, and if the Defendant shall fail to enter his plea, within two months after receiving such declaration and notice, the Plaintiff may have his judgment by default, as in other cases. *a*

What further process when a capias is returned "not found." Proceedings on attachment returned "executed."

XXXIII. WHERE the Sheriff or other proper officer, shall return on any writ of *capias* to answer in any civil action, that the Defendant is not found within his bailiwick, the Plaintiff may either sue out an *alias* or a *pluries capias*, until the Defendant shall be arrested, or a *testatum capias*, where he shall be removed into another county, or may, at his election, sue out an attachment against the estate of the Defendant to force an appearance; and if the Sheriff or other officer shall return that he hath attached any goods, and the Defendant shall not appear and replevy the same, by entering his appearance and giving special bail, in case he shall be ruled so to do, the Plaintiff shall file his declaration, and be entitled to a judgment for his debt or damages and costs, which judgment shall be final in all actions of debt founded on any specialty, bill or note in writing, ascertaining the demand, unless the Plaintiff shall choose in any such case to have a writ of enquiry of damages, and in other cases the damages shall be settled by a Jury sworn to enquire thereof. The goods attached shall remain in the hands of the officer until such final judgment be entered, and

(*a*) 1788, *ch.* 67, *sec.* 20, 30, 31, 32.

then be ſold in the ſame manner as goods taken upon a *fieri facias*, and if the judgment ſhall not be thereby ſatisfied, the Plaintiff may ſue out execution for the reſidue; and in caſe more goods be attached than will ſatisfy the judgment, the ſurplus ſhall be returned to the Defendant. *a*

Where proceſs is executed but not returned.

XXXIV. IF any writ or proceſs ſhall be executed, and for want of a return thereof to the office from which it iſſued, an *alias*, *pluries*, attachment, or other proceſs be awarded, the Sheriff ſhall not execute ſuch ſubſequent proceſs, but ſhall return the firſt proceſs by him executed, if it be in his poſſeſſion, but if it be not in his poſſeſſion, then he ſhall return the ſubſequent proceſs, with an indorſement of the execution of ſuch firſt proceſs, and the name of the appearance bail, if any was taken, and ſhall alſo return a copy of the bail-bond, on which there ſhall be the ſame proceedings, as if the ſaid firſt proceſs had been duly returned. *b*

Rules to be obſerved in the proſecution of ſuits.

XXXV. RULES ſhall be monthly held in the Clerk's office of each Diſtrict Court, beginning the day after the riſing of ſuch Court. The Plaintiff ſhall file his declaration in the Clerk's office at the next ſucceeding rule day, after the Defendant ſhall have entered his appearance, or the Defendant may then enter a rule for the Plaintiff to declare, which if he fails or neglects to do, at the ſucceeding rule day, or ſhall at any time fail to proſecute his ſuit, he ſhall be nonſuited, and pay to the Defendant or Tenant beſides his coſts, three dollars, where his place of abode is at the diſtance of twenty-five miles or under, from the place of holding the ſaid Diſtrict Court, and where it is more, ten cents for every mile above twenty. *b*

XXXVI. ONE month after the Plaintiff hath filed his declaration, he may give a rule to plead with the Clerk, and if the Defendant ſhall not plead accordingly at the expiration of ſuch rule, the Plaintiff may enter judgment for his debt, or damages and coſts. *b*

XXXVII. ALL rules to declare, plead, reply, rejoin, or for other proceedings, ſhall be given regularly from month to month, ſhall be entered in a book to be kept for that purpoſe, and ſhall expire on the ſucceeding rule day. *b*

XXXVIII. NO plea in abatement ſhall be admitted or received, unleſs the party offering the ſame, ſhall prove the truth thereof, by oath or affirmation, as the caſe may require. And no plea of *non eſt factum* offered by the perſon charged as the obligor or grantor of a deed, ſhall be admitted or received, unleſs the truth thereof ſhall in like manner be proved by oath or affirmation. *b*

XXXIX. AND where any perſon other than the obligor ſhall be Defendant, ſuch Defendant ſhall prove by oath or affirmation, that he or ſhe verily believes, that the deed on which the action is founded, is not the deed of the perſon charged as the obligor or grantor thereof; in which laſt mentioned caſe, the plea of *non eſt factum* ſhall not be admitted or received without ſuch oath or affirmation. And where a plea in abatement ſhall upon argument be adjudged inſufficient, the Plaintiff ſhall recover full coſts, to the time of over-ruling ſuch plea, a lawyer's fee only excepted. *b*

XL. THE Plaintiff in replevin, and the Defendant in all other actions, may plead as many ſeveral matters, whether of Law or fact, as he ſhall think neceſſary for his defence. *b*

Proceedings on a pluries returned "not to be found."

XLI. ON the return of the pluries, that the Defendant is not to be found, the Court inſtead of the proceſs to outlawry formerly uſed, may order a proclamation to iſſue, warning the Defendant to appear at a certain day therein named, or that judgment will be rendered againſt him, which proclamation ſhall be publiſhed at three ſucceſſive Court days, at the door of the Court-houſe of the County to which the laſt proceſs was directed, and alſo three times in the *Virginia* Gazette; and if the Defendant fails to appear purſuant to ſuch proclamation, the ſame proceedings ſhall be had, and the ſame judgment given, as in other caſes of default. *b*

Judgments by default, non-ſuits, &c. when to be entered.
Plaintiff in judgment by default may have a writ of enquiry.

XLII. All judgments by default for want of an appearance or ſpecial bail, or pleas as aforeſaid, and non-ſuits or diſmiſſions obtained in the office, and not ſet aſide on ſome day of the next ſucceeding Diſtrict Court, ſhall be entered by the Clerk as of the laſt day of the Term, which judgment ſhall be final in actions of debt, founded on any ſpecialty, bill or note in writing, aſcertaining the demand, unleſs the Plaintiff ſhall chooſe in any ſuch caſe to have a writ of enquiry of damages, and in all other caſes the damages ſhall be aſcertained by a

(*a*) 1788, *ch.* 67, *ſec.* 33. *When ſheriff is kept off by force, a return to that effect will authorize plaintiff to proceed as if it had been executed, or may award an al. or pl. caps.* (*See acts of* 1799, *ch.* 8.)

(*b*) 1788, *ch.* 67, *ſec.* 34, 35, 36, 37, 38, 39, 40, 41.

Jury, to be impannelled and ſworn to enquire thereof, as is herein after directed. *a*

Rules for docketing cauſes.

XLIII. BEFORE every Diſtrict Court, the Clerk ſhall enter in a particular docket, all ſuch cauſes, (and thoſe only) in which an iſſue is to be tried, or enquiry of damages to be made, or a ſpecial verdict, caſe agreed, demurrer, or other matter of Law is to be argued, in the ſame order, as they ſtand in the courſe of proceeding, ſetting as near as may be, an equal number of cauſes to each day. *b*

In what caſes the court may award coſts.

XLIV. IT ſhall be lawful for the Diſtrict Courts, on giving judgment in any caſe removed by appeal, writ of error, *ſuperſedeas*, or *certiorari*, from the Inferior Courts, either for the Appellant, Appellee, Plaintiff or Defendant, and in any cauſe originating in the Diſtrict Courts, where the verdict or judgment ſhall be given for the Defendant, to award coſts to the party or parties, in whoſe favor ſuch judgment ſhall be given; and on all motions it ſhall be lawful for the ſaid Courts to give or refuſe coſts at their diſcretion; and in all other cauſes where the Plaintiff ſhall recover debt or damages, the coſts ſhall be governed by Law. *c*

In what to be governed by law.

When certioraris may be granted without notice.

XLV. A *CERTIORARI* to remove proceedings on a forcible entry or detainer, or for any other purpoſe, except the removal of a ſuit from an Inferior Court, may be granted without notice. *d*

Proceedings to be read and ſigned.

XLVI. FOR preventing errors in entering up the judgments of the ſaid Courts, the proceedings of every day ſhall be drawn up at large, by the Clerk againſt the next ſitting of the Court, when the ſame ſhall be read in open Court, and ſuch corrections as are neceſſary, being made therein, they ſhall be ſigned by the preſiding Judge, and carefully preſerved among the Records. On the laſt day of each Court, the proceedings therein ſhall be drawn up, read, corrected, ſigned and preſerved as aforeſaid. *e*

Complete records to be made of cauſes determined.

XLVII. WHEN any cauſe ſhall be finally determined, the Clerk of the Diſtrict Court, ſhall enter all the pleadings, and papers filed as evidence therein, and the judgment thereupon, ſo as to make a complete Record thereof, and thoſe wherein the title of lands is determined, ſhall be entered in a ſeparate book to be kept for that purpoſe. *e*

Proceedings on writs of ſcire facias for renewal of judgments in certain caſes.

XLVIII. ON writs of *ſcire facias* for renewal of judgments, no judgment ſhall be rendered on the return of two *nihils*, unleſs the Defendant reſides in the Diſtrict, or unleſs he be abſent from the Commonwealth, and have no known Attorney within the ſame. But ſuch *ſcire facias* may be directed to the Sheriff of any County in this Commonwealth, wherein the Defendant or his Attorney ſhall reſide or be found, which being returned ſerved, the Court may proceed to judgment thereon, as if the Defendant had reſided in the Diſtrict. *f*

Certiorari, how to be obtained.

XLIX. IF any perſon or perſons ſhall deſire to remove any ſuit depending in any Inferior Court, into the Diſtrict Court, provided the ſame be originally cognizable therein, a *certiorari*, for ſuch removal, may be granted by the Diſtrict Court, for good cauſe ſhewn upon motion, and ten days previous notice thereof, given in writing to the adverſe party, or in vacation, the party deſiring ſuch writ, ſhall by petition to the Judges of the General Court, ſet forth his or her reaſons, and make oath before a Magiſtrate of the truth of the allegations of ſuch petition, whereupon any Judge of the ſaid Court, may, under his hand, order the *certiorari* to iſſue, and direct the penalty of the bond, to be taken previous thereto, or may reject ſuch petition, as to him ſhall ſeem juſt; provided that ten days previous notice of the time and place of applying for ſuch writ, be

(a) There ſeems to be a material difference between the 42d ſect of this act, and the clauſe in the act of 1753 (eſtabliſhing the proceedings of the General Court)—Pa. 298 of old Reviſed Code, under which office judgments were entered, a part of which is in theſe words—"That upon the expiration of every rule, judgment by default, or a non ſuit ſhall be ſigned by the Clerk in the office, as of the preceding term, which judgment ſhall be final in actions of debt, where the debt is certain; and in other actions a writ of enquiry ſhall be executed" &c.

(b) The act of 1753, ch. 1. ſec 24 provides that writs of enquiry ſhall not be executed at the firſt term after they are ordered without notice; and likewiſe that iſſues ſhall not be tried at the firſt term without notice; but if not tried on notice at the firſt term they ſhall ſtand in the uſual order for trial at the ſucceeding Court.—Note of Committee of Reviſors. The Legiſlature of '92 ſeem to have made no regulation on that ſubject.

(c) May 1783, ch. 40. (d) 1789, ch. 13, ſec. 17. (e) 1788, ch. 67, ſec. 80, 81, 82, 83. (f) Amended in 1797, ch. 14, pa. 11.

given in writing to the adverſe party, upon which order of the Judges, the Clerk ſhall iſſue the *certiorari*. *Provided*, that the party ſhall enter into bond with ſufficient ſecurity, in the penalty ſo directed, with condition for ſatisfying all money or tobacco and coſts, which ſhall be recovered againſt the party in ſuch ſuit; but if any ſuit ſo removed by *certiorari*, ſhall be remanded to the Inferior Court, by *procedendo* or otherwiſe, ſuch cauſe ſhall not afterwards be removed to the Diſtrict Court, before judgment ſhall be given therein in the Inferior Court. *a*

Rule reſpecting ſuits remanded.

Puniſhment of falſe ſwearers.

L. THE Clerks of the Diſtrict Courts, ſhall carefully preſerve all ſuch petitions for writs of *certiorari*, with the affidavits thereto, in the office; and if any perſon in ſuch affidavit, ſhall wilfully make a falſe oath, and be thereof convicted, upon a proſecution commenced within twelve months after the offence committed, ſuch offender ſhall ſuffer the pains and penalties directed for wilful and corrupt perjury. *a*

No writ of error or ſuperſedeas before final judgment; or after five years from the date thereof; ſaving the rights of infants, &c.

LI. NO writ of error or *ſuperſedeas* ſhall be granted in any caſe, until a final judgment in the County or other Inferior Court. *a*

LII. NO *ſuperſedeas* or writ of error, ſhall be granted to any judgment in the Diſtrict or County, or other Inferior Court, after the expiration of five years, from and after the date thereof; ſaving the rights of infants, *femes covert*, perſons *non compos*, in priſon, or beyond ſeas, until the expiration of two years after the diſability ceaſes. *a*

Appeals to the Diſtrict Courts in certain caſes.

LIII. WHERE any perſon or perſons, body politic or corporate, ſhall think themſelves aggrieved by the judgment, or ſentence of any County Court, or Court of Huſtings, in any action, ſuit, or conteſt whatſoever, where the debt or damages, or other thing recovered or claimed in ſuch ſuit, excluſive of the coſts, ſhall be of the value of one hundred dollars, or three thouſand pounds of tobacco or upwards, or where the title or bounds of land ſhall be drawn in queſtion, or the conteſt ſhall be concerning mills, roads, the *probat* of wills, or certificates for obtaining adminiſtration, ſuch perſon or perſons, body politic or corporate, may enter an appeal from ſuch judgment or ſentence, to the firſt day of the next Court of the Diſtrict, in which ſuch County is. *a*

How a ſuperſedeas may be obtained.

LIV. THE party praying a writ of *ſuperſedeas*, ſhall petition the Diſtrict Court for the ſame, pointing out the errors he means to aſſign in the proceedings, and procure ſome Attorney practiſing in ſuch Court reſpectively, to certify, that in his opinion there is ſufficient matter of error for reverſing the judgment, whereupon ſuch Courts in their Seſſion, or any Judge of ſuch Court reſpectively in vacation, may order ſuch writ to be iſſued, or reject the petition, as to them ſhall ſeem juſt. *a*

Writs of error or ſuperſedeas not to be allowed unleſs judgment amounts to a certain ſum

LV. WRITS of error or *ſuperſedeas*, may be granted by a Diſtrict Court, or any Judge of the General Court, to a judgment of a County Court, where ſuch judgment ſhall be of the value of thirty-three dollars, and thirty-three cents, or one thouſand pounds of tobacco, or upwards. *b*

Bond and ſecurity to be given on obtaining an appeal, writ of error, &c.

Sufficient, if given by one of ſeveral parties.

LVI. BEFORE granting any appeal, or the iſſuing of any writ of error or *ſuperſedeas*, the party praying the ſame, ſhall enter into bond with ſufficient ſecurity, in a penalty to be fixed by the Court or Judge granting the ſame, with condition to pay the amount of the recovery, and all coſts and damages awarded, in caſe the judgment or ſentence be affirmed. Where ſeveral appeal, or obtain a writ of *error* or *ſuperſedeas*, bond and ſecurity given by any party, ſhall be ſufficient. *c*

Judgment on reverſal.

LVII. IF upon hearing any writ of error or *ſuperſedeas*, the judgment of the Inferior Court be reverſed in whole or in part, the Diſtrict Court ſhall enter ſuch judgment thereupon, as ought to have been entered in the Inferior Court. *d*

Bonds on appeals, &c. may be given by any reſponſible perſon.

LVIII. BONDS to be given in Court for obtaining writs of error, *ſuperſedeas*, *certiorari*, appeals, or any other cauſe, ſhall be valid and ſufficient if given by a reſponſible perſon and ſecurity, although the party intereſted in the event of the ſuit be not an Obligor. *d*

Damages upon affirmance.

LIX. WHERE the Defendant in any perſonal action appeals, or obtains ſuch writ of error or *ſuperſedeas*, if the judgment be affirmed, the damages beſides coſts ſhall be ten *per centum per annum* upon the principal ſum and coſts, recovered in the Inferior Court, in ſatisfaction of all damages or intereſt. *d*

(a) 1788, *ch.* 67, *ſec.* 84, 85, 86, 87, 88. *(b)* 1789, *ch.* 13, *ſec.* 22. *(c)* 1788, *ch.* 67, *ſec.* 90. [*See ſect.* 58 *of this act.*] *(d)* 1788, *ch.* 67, *ſec.* 91, 92, 93.

LX. IN real or mixed actions the damages shall be thirty-three dollars and thirty-three cents, or two thousand pounds of tobacco, besides costs, and where the Plaintiff appeals in any action, if the judgment be affirmed, and in all controversies about mills, roads, probat of wills, or certificates for administration, if the sentence of the Inferior Court be affirmed, the party appealing shall pay to the other all costs. *a*.

Rule respecting filing records on appeals.

LXI. IF a Record on an appeal, writ of error, or *supersedeas*, be not delivered to the Clerk of the District Court before or during the second Term of such Court after the same was granted, the same shall not be received at any time thereafter, unless good cause be shewn to the Court to the contrary; and after such dismission, no writ of error, or *supersedeas*, shall be allowed. *b*

Atto-ney General to appoint deputies.

LXII. IT shall be the duty of the Attorney General to nominate and appoint proper persons to prosecute for the Commonwealth, in such Courts as he cannot attend himself. *c*

Lists of fines imposed by the courts to be sent to the sheriffs, to be collected by them, and copies of such lists to be sent to the Auditor.

LXIII. THE Clerk of each District Court shall annually before the last day of *January*, transmit to the Sheriff of each County within the District, a list of all fines imposed by the District Court in the year next preceding, to the use of the Commonwealth, on persons residing in such County, and the Sheriffs shall respectively proceed to collect, levy, account for, and pay the same in like manner, and subject to the same remedy and proceedings against them for default, as is or shall be directed in case of public taxes, being allowed in their accounts for Insolvents, and five *per centum* commissions; and the said Clerks shall severally transmit copies of such lists to the Auditor, to enable him to call the Sheriffs to account. *c*

Jurisdiction as to causes now pending.

LXIV. THE said Courts shall have jurisdiction respectively in all causes, matters and things in the District Courts respectively depending at the commencement of this Act, and no discontinuance shall take place in any case whatsoever, civil or criminal, which shall be depending in any District Court at the commencement of this Act, by reason of the passing thereof, but the same shall be therein tried and determined as if this Act had never been made.

Former acts repealed.

LXV. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and are hereby repealed.

Commencement of this Act.

LXVI. THIS Act shall commence in force on the first day of *January*, one thousand seven hundred and ninety-three.

CHAP. LXVII.

An Act to reduce into one, the several Acts concerning the County and other Inferior Courts of this Commonwealth.†

[Passed the 3d of December, 1792.†]

County and corporation courts to be held by the justices thereof.

I. BE *it enacted by the General Assembly*, That in every County, City, Corporation, and Borough within this Commonwealth, in which the power of holding Courts hath been heretofore, or shall hereafter be vested by Law, a Court, to be denominated the Court of such County, City, Corporation, or Borough, respectively, shall hereafter continue to be held by the Justices of such Counties, and the Magistrates of such Cities, Corporations, and Boroughs, respectively, at the times and places, and in the manner hereinafter directed; any four of which Justices or Magistrates shall constitute a Court, except in such cases where a greater number may by any Law be directed. *d*

Any four of them to constitute a court.

Justices shall be sworn.

II. EVERY person appointed a Justice of the Peace for any County or Corporation, before his entering upon and executing the said office, shall publicly in the Court-house of his County or Corporation, and on a Court day, take the oath of fidelity to the Commonwealth, as also the following oaths, to wit:

Their oath.

YOU shall swear that as a Justice of the Peace, in the County, (or Corporation) of , in all articles in the commission to you directed you shall do equal right to the poor and to the rich, to the best of your ability and judgment, and according to Law; and you shall not be of counsel of any quarrel hanging before you, and issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, you shall cause to be entered without any concealment or embezzling; you shall not let for gift, or other causes, but well and truly you shall do your office of a Justice of the Peace, as well within your County, (or Corporation)

(*a*) 1788, *ch.* 67, *sec.* 94. (*b*) 1789, *ch.* 13, *sec.* 35. (*c*) 1788, *ch.* 67, *sec.* 10, 132. † *Amended in* 1797, *pa.* 8. (*d*) 1748, *ch.* 4.

Court, as without and you shall not take any fee, gift, or gratuity, for any thing to be done by virtue of your office; and you shall not direct, or cause to be directed, any warrant by you to be made, to the parties; but you shall direct them to the Sheriff or other Officer of the Commonwealth, or other indifferent person, to do execution thereof. So help you GOD.

Oath of a justice in chancery.

The oath of a Justice of the County or Corporation Courts in Chancery: *YOU shall swear that well and truly you will serve the Commonwealth in the office of a Justice in the County (or Corporation) Court of , in Chancery, and that you will do equal right to all manner of people, great and small high and low, rich and poor, according to equity and good conscience, and the Laws and usages of the Commonwealth of Virginia, without favor, affection, or partiality.* So help you GOD.

Penalty for acting without qualifying.

And if any person whatsoever shall presume to execute the office of a Justice of the Peace, or Magistrate of a County or Corporation Court, without first qualifying himself in the manner by this Act before required, he shall for every such offence, forfeit and pay one thousand dollars, one moiety to the use of the Commonwealth, and the other moiety to the informer; to be recovered by action of debt, in any Court of Record in this Commonwealth. *a*

Courts may be adjourned from day to day for six days.

III. IF the business of any of the said Courts cannot be determined on the Court day, the Justices may adjourn from day to day not exceeding six days, until all causes and controversies then depending before them, shall be heard and determined, or otherwise continued in the manner hereinafter directed. *b*

How to be adjourned when the justices do not attend.

IV. IF a sufficient number of Justices should not attend to form a Court on the first day of any Court, or any subsequent day thereof, it shall and may be lawful for any one Justice to adjourn the Court from day to day, for the space of three days; and if there shall not be a sufficient number convened at four o'clock in the afternoon of the fourth day, all causes, matters and things therein depending, shall stand continued to the next succeeding Court. If from any cause the Court shall not sit on any day in a Term after it shall have been opened, there shall be no discontinuance, but so soon as the cause is removed, the Court shall proceed to business until the end of the Term, if the business depending before them be not sooner dispatched. No discontinuance shall take place in any case by reason of the Justices failing to make a Court, or to adjourn; but in such cases, all suits, process, matters and things depending, shall stand continued, and all returns and appearances, shall be made to the next succeeding Court in course, in the same manner as if such succeeding Court had been the same Court to which such process stood continued, or such returns or appearances should have been made. And all recognizances, bonds and obligations, for appearance, and all returns, shall be of the same force and validity for the appearance of any person or persons at such succeeding Court, as if the next succeeding Court had been expressly mentioned therein. And all causes depending upon the docket, and undetermined at any adjournment to the Court in course, shall stand continued in the same order to such Court, without any fee to the Clerk for the continuance of such as shall not then be called over. *c*

Suits not to be discontinued by the justices failing to hold a court.

Jurisdiction of the court

V. THE Justices of every such Court, or any four of them, as aforesaid, shall and may take cognizance of, and are hereby declared to have power, authority and jurisdiction, to hear and determine all causes whatsoever now depending, or which shall hereafter be brought in any of the said Courts, at the common Law, or in Chancery, within their respective Counties and Corporations, and all such other matters as by any particular statute, is or shall be made cognizable therein, except such criminal causes where the judgment upon conviction shall be for the loss of life or member, and except the prosecution of causes to outlawry against any person or persons, and except also all causes of less value than five dollars,† or two hundred pounds of tobacco, other than prosecutions on any penal Law of this Commonwealth; and also such cases as are by Law exclusively vested in any other tribunal. *d*

Certain causes excepted.

Causes determinable before one justice.

VI. WHEN the cause of action shall not exceed five dollars, or two hundred pounds of tobacco, the same is hereby declared to be cognizable, and finally determinable by any one Justice of the Peace, who may give judgment, and thereupon award execution against the goods and chattels of the Debtor, or party against whom such judgment shall be given, which shall be executed and returned, by the Sheriff or Constable to whom directed, in the same manner, as other writs of *fieri facias*, are to be executed and returned, but no execution shall be by him granted against the body of the Defendant. *e*

But he may not issue execution against the defendant's body.

(*a*) 1748, *ch.* 4, *sec.* 2. (*b*) 1787, *ch.* 10. (*c*) 1748, *ch.* 4, *sec.* 24 † *Encreased from 2½* (*d*) 1748, *ch.* 4, *sec.* 5. (*e*) *By act of Dec. Sess.* 1800, *ch.* 38, *the jurisdiction of justices is extended to ten dolls. or* 400 *lbs. tobacco.*

Quarterly seſſions.

VII. THE ſaid Courts ſhall be held at the ſeveral reſpective places, at preſent aſſigned by Law for that purpoſe, or at ſuch place or places, as ſhall be hereafter lawfully appointed, on the ſeveral days for holding Courts heretofore in ſuch Counties or Corporations reſpectively appointed by Law, in the months of *March*, *May*, *Auguſt*, and *November*, in every year, except as herein after excepted, for the trial of all preſentments, criminal proſecutions, ſuits at common Law and in Chancery, where the ſum exceeds †twenty dollars, or eight hundred pounds of tobacco, now depending, or which hereafter ſhall be brought in any of the ſaid Courts, and ſhall continue for the ſpace of ſix days, unleſs the buſineſs be ſooner determined; which Seſſions of the ſaid Courts ſhall be denominated the quarterly Seſſions of ſuch Courts reſpectively. *Provided always*, that in the Counties of *Montgomery*, *Waſhington*, *Ruſſel*, and *Wythe*, ſuch Courts ſhall be held on the days now by Law reſpectively appointed for holding Courts in the months of *April*, *June*, *September*, and *November*; and in the Counties of *Henry* and *Cumberland*, in the months of *February*, *April*, *July*, and *October*; and in the Counties of *Norfolk*, *Princeſs Anne*, *Northampton*, *Nanſemond*, *Stafford*, *Spotſylvania*, *Fairfax*, *Loudoun*, *Prince William*, *Berkeley*, and *Ohio*, and in the Borough of *Norfolk*, in the months of *March*, *June*, *Auguſt*, and *November*; and in the County of *Pendleton*, in the months of *April*, *June*, *September*, and *December*; and in the County of *Hampſhire*, in the months of *March*, *May*, *September*, and *November*, in every year; and in the Counties of *King George* and *Frederick*, in the month of *June*, annually, inſtead of the month of *May*. *a*

Monthly ſeſſions.

VIII. A MONTHLY Seſſion of the ſaid Courts ſhall be held in like manner, on the days heretofore by Law appointed for holding Courts in ſuch Counties and Corporations reſpectively, in every month in which there ſhall not be a quarterly Seſſion for the trial of petitions for ſmall debts, or for trover and converſion, or detention of any thing not exceeding twenty dollars, or eight hundred pounds of tobacco, for proving and recording deeds and wills, and granting certificates of *probat* and adminiſtration, and for the tranſaction of all buſineſs, which by Law is or ſhall be made cognizable in a County or Corporation Court, except ſuch as has been herein aſſigned to the Court of quarter Seſſions. *Provided nevertheleſs*, that injunctions in Chancery may be granted or diſſolved, judgments on attachments againſt abſconding Debtors, where the property attached ſhall not be replevied, entered up, and all matters touching the breach of the Peace, and good behaviour, motions on replevy bonds, and againſt Sheriffs and other public Officers and Defaulters, may be heard and determined either at a monthly or quarterly Court. *b*

Concurrent juriſdiction of monthly and quarterly courts.

Method of iſſuing and returning proceſs.

IX. ALL original proceſs to bring any perſon or perſons to anſwer in any action or ſuit, indictment or information in the ſaid Courts, and all ſubſequent proceſs thereon, all proceſs in Chancery awarded by the ſaid Court, and all other writs of what nature ſoever, ſhall be iſſued and bear teſte by the Clerk of ſuch Courts reſpectively, and made returnable to the firſt day of the next ſucceeding quarterly Term; except *ſubpœnas* of injunction, attachments, petitions and *ſubpœnas* for witneſſes, which ſhall be returnable to the next ſucceeding Court, be the ſame monthly or quarterly, as the caſe may require. *b*

Special bail, may be taken in court.

X. SPECIAL bail may be taken in Court at the quarterly Seſſions, or at the monthly Courts. *b*

Proceedings againſt abſent defendants, as in the High Court of Chancery.

May hear and determine caveats againſt grants for land.

XI. THE County and Corporation Courts, at their quarterly Seſſions, ſhall have ſimilar juriſdiction with the High Court of Chancery, and ſhall proceed in the ſame manner againſt the eſtate and effects of perſons reſiding out of this State, or abſconding to avoid being ſerved with the proceſs of the ſaid Court; and may hear and determine all *caveats* againſt grants for lands lying within the juriſdiction of the ſaid Courts reſpectively.

Executions, when returnable.

XII. ALL writs of execution upon judgments obtained in the quarterly or monthly Courts, and all executions and other proceſs to enforce any decree in Chancery, obtained in either of the ſaid Courts, may be made returnable to the firſt day of a quarterly or monthly Court, provided there be not leſs than fifteen, nor more than ninety days between the teſte and return of ſuch execution or proceſs. *b*

(*a*) 1787, *ch.* 10. † *Formerly £.* 5. 1788, *ch.* 40. 1789, *ch.* 51. 1790, *ch.* 51, 55. 1788, *ch.* 22. (*b*) 1787, *ch.* 10. *amended.* 1787, *ch.* 10.

Courthouſes and other public buildings ſhall be erected and kept in repair.

XIII. FROM time to time, forever hereafter, the Court of every County and Corporation within this Commonwealth, ſhall cauſe to be erected and kept in repair, (or where the ſame ſhall be already built, ſhall maintain and keep in good repair) within each reſpective County and Corporation, and at the charge of ſuch County or Corporation, one good and convenient Court-houſe of ſtone, brick, or timber, and one common Jail and County Priſon, well ſecured with iron bars, bolts, and locks, and alſo one Pillory, Whipping-Poſt, and Stocks; and where land ſhall not be already provided and appropriated for that purpoſe, ſuch Court may purchaſe two acres, whereon to erect the ſaid public buildings, for the uſe of their County or Corporation, and for no other uſe whatſoever. And to every Court-houſe, already built and eſtabliſhed, two acres of the land, built upon and adjacent thereto, not having any houſe, orchard, or other immediate convenience thereon, ſhall be and remain appropriated to ſuch Court-houſe, and the fee-ſimple thereof, is hereby declared to be in the Court of the ſame County, and their ſucceſſors, to the uſe of ſuch County as aforeſaid; but where a Court-houſe is already built in any City or Town, the Land now laid off for the ſame, and the other public buildings, ſhall be judged and held to be ſufficient. And if the Juſtices of any County or Corporation Court, ſhall at any time hereafter fail to keep and maintain a good and ſufficient Priſon, Pillory, and Stocks, every Member of the Court, ſo failing, ſhall forfeit and pay ten dollars, one moiety to the Commonwealth, the other moiety to the Informer; to be recovered with coſts, by action of debt or information, in any Court of Record of this Commonwealth. And moreover, the Court ſo failing, ſhall be liable to the action of the Sheriff, from time to time, for all damages recovered againſt him, upon any eſcape for want of a ſufficient Priſon; and ſuch Sheriff or his Executors, or Adminiſtrators, ſhall and may ſue for the ſame by action of debt or information, brought in the General Court againſt the Juſtices ſo failing, or the ſurvivors of them, and upon recovery in ſuch ſuit, the Judges of the ſaid Court, are hereby empowered and required to proportion how much every particular Juſtice of the Court ſo failing, who ſhall be then living, and the Executors or Adminiſtrators of ſuch as ſhall be deceaſed, ſhall pay reſpectively, and to enter up judgment accordingly, whereupon one or more executions ſhall and may be iſſued. *a*

Penalty for failing to keep a ſufficient priſon, &c.

Public jail in Williamſburg to be uſed as the jail thereof, and of James City county.

XIV. ALL perſons taken on civil or criminal proceſs in the County of *James City*, may be committed to the public Jail in the City of *Williamſburg*, in like manner as if the ſame was within the limits of the ſaid County; and the City of *Williamſburg* ſhall have a right to uſe the public Jail therein, as the Jail of the ſaid City, and the Diſtrict Jailor therein ſhall act as keeper of the Jail of the ſaid City. *b*

Priſon rules to be aſſigned.

XV. THE Juſtices of every County and Corporation, ſhall be, and they are hereby empowered and required, to mark and lay out the Bounds and Rules of their reſpective County and Corporation Priſons, not exceeding ten acres of land, adjoining to ſuch Priſon, which Marks and Bounds ſhall be recorded, and renewed from time to time, as occaſion ſhall require; and every priſoner not committed for treaſon or felony, giving good ſecurity to keep within the ſaid Rules, ſhall have liberty to walk therein, out of the Priſon for the preſervation of his or her health, and keeping continually within the ſaid Bounds, ſhall be adjudged in Law a true priſoner. *c*

Ducking-ſtool may be provided.

XVI. AND if the Court of any County or Corporation, ſhall at any time think fit, they are hereby authoriſed and empowered, at the charge of their County or Corporation, to cauſe a Ducking-Stool to be built in ſuch convenient place as they ſhall direct. *c*

Proceſs to be executed three days before return day.

When returnible, if iſſued within three days before the next court day If iſſued or returnable in any other manner to be void.

XVII. ALL proceſs iſſuing from ſuch Courts to bring any perſon to anſwer in any ſuit in ſuch Courts, ſhall be executed three days at leaſt before the day therein mentioned for the return thereof; and if any proceſs ſhall be delivered to the Sheriff or Officer ſo late that he cannot execute the ſame three days before the return day, ſuch proceſs ſhall not be executed, but the Officer ſhall return the truth of the caſe. And if any original proceſs be taken out within three days before the next Court day, ſuch proceſs ſhall be returnable to the next Court after the ſaid three days, and not otherwiſe; and all proceſs iſſued or returnable, in other manner than is herein before directed, ſhall be null and void. *Provided nevertheleſs*, that any Juſtice or Juſtices of Peace, by his or

(*a*) 1748, *ch.* 4, *ſec.* 30. (*b*) 1784, *ch.* 18. 1791, *ch.* 25, *ſec.* 1.
(*c*) 1748, *ch.* 4, *ſec.* 31.

their warrant, may cauſe any traitor, felon, pirate, rioter, breaker of the peace, or other criminal offender, to be apprehended and brought before the ſame, or ſome other Juſtice or Juſtices, or before the next Court, although there be not three days between the execution of ſuch warrant and the return thereof. *a*

Criminal caſes excepted.

XVIII. IN all actions or ſuits which may be commenced againſt the Governor of this Commonwealth, any Member of the Privy Council, any of the Judges of the Superior Courts, or the Sheriff of any County, during his continuance in office, inſtead of the ordinary proceſs, a ſummons ſhall iſſue to the Sheriff, or other proper Officer, reciting the cauſe of action, and ſummoning ſuch Defendant to appear and anſwer the ſame, on the proper return day, in the next Court; and if ſuch Defendant, being ſummoned, or after a copy ſhall have been left at his houſe ten days before the return day, ſhall not appear to anſwer the ſame, the Court ſhall proceed againſt ſuch Defendant, in the ſame manner as if he had been taken upon a *capias ad reſpondendum*. *Provided always*, that after judgment and the return of a *fieri facias* by the Sheriff of that County in which the Defendant in any ſuch caſe reſides, that no effects, or not ſufficient are to be found in his bailiwick to ſatisfy the ſaid judgment, a *capias ad ſatisfaciendum* may be iſſued, as in other caſes. *b*

Proceſs in ſuits againſt the Governor, Councillors, Judges and Sheriffs.

XIX. IN all actions to recover the penalty for breach of any penal Law, not particularly directing ſpecial bail to be given, in actions of ſlander, treſpaſs, aſſault and battery, actions on the caſe for trover, or other wrongs, and all perſonal actions, except ſuch as ſhall be herein after particularly mentioned, the Plaintiff or his Attorney, ſhall, on pain of having his ſuit diſmiſſed with coſts, indorſe on the original writ, or ſubſequent proceſs, the true ſpecies of action, that the Sheriff to whom the ſame is directed, may be thereby informed whether bail is to be demanded on the execution thereof; and in the caſes before mentioned, the Sheriff may take the engagement of an Attorney practiſing in the County Court, indorſed on the writ that he will appear for the Defendant or Defendants, and ſuch appearance ſhall be entered with the Clerk in the office on the firſt day after the end of the Court to which ſuch proceſs is returnable. And although no ſuch engagement of an Attorney ſhall be offered to the Sheriff, he ſhall nevertheleſs be reſtrained from committing the Defendant to priſon, or detaining him in his cuſtody for want of appearance bail; but the Sheriff in ſuch caſe ſhall return the writ executed, and if the Defendant ſhall fail to appear thereto, there ſhall be the like proceeding againſt him only, as is herein after directed againſt Defendants and their appearance bail, where ſuch is taken. *Provided always*, that any Juſtice of the Peace, in actions of treſpaſs, aſſault and battery, trover, and converſion, and in actions on the caſe, where, upon proper affidavit, or affirmation, it ſhall appear to him proper that the Defendant or Defendants ſhould give appearance bail, may, and he is hereby authoriſed to direct ſuch bail to be taken by indorſement on the original writ, or ſubſequent proceſs; and every Sheriff ſhall govern himſelf accordingly.

In certain ſuits plaintiff to indorſe on the writ the true ſpecies of action.

In which the ſheriff may take the engagement of an attorney to appear for defendant; but ſhall not commit him for want thereof, or of bail.

Any juſtice may direct bail to be taken.

XX. IN all actions of debt founded upon any writing obligatory, bill, or note in writing, for the payment of money or tobacco, all actions of covenant or detinue, in which caſes the true ſpecies of action ſhall be indorſed on the writ, as before directed, and that appearance bail is to be required, the Sheriff ſhall return on the writ, the name of the bail by him taken,* and a copy of the bail-bond to the Clerk's office before the day of appearance; and if the Defendant ſhall fail to appear accordingly, or ſhall not give ſpecial bail, being ruled thereto by the Court, the bail for appearance may defend the ſuit, and ſhall be ſubject to the ſame judgment and recovery, as the Defendant might or ſhould be ſubject to, if he had appeared and given ſpecial bail; and in actions of detinue the bail-piece ſhall be ſo changed, as to ſubject the bail to the reſtitution of the thing, whether animate or inanimate, ſued for, or the alternative value, as the Court may adjudge.

Directions to the ſheriff where bail is required.

When bail may defend the ſuit.

How bail is to be given in detinue.

XXI. AND if the Sheriff or other Officer ſhall not return bail, and the copy of the bail bond, or the bail returned ſhall be adjudged inſufficient by the Court, and the Defendant ſhall fail to appear and give ſpecial bail, if ruled thereto, in ſuch caſe the Sheriff or other Officer may have like liberty of defence, and ſhall be ſubject to the ſame recovery as is provided in the caſe of appear-

Remedy againſt ſheriff neglecting to return ſufficient bail.

(*a*) 1748, *ch.* 4, *ſec.* 13, 14. (*b*) 1788, *ch.* 67, *ſec.* 23. * *Formerly the Sheriff was only required to return the name of the bail.*

ance bail. And if the Sheriff or other Officer depart this life before judgment be confirmed againſt him, in ſuch caſe the judgment ſhall be confirmed againſt his Executors or Adminiſtrators, or if there ſhall not be a certificate of *probat* or adminiſtration granted, then it may be confirmed againſt his eſtate, and a writ of *fieri facias* may in either caſe be iſſued; but the Plaintiff ſhall object to the ſufficiency of the bail during the ſitting of the Court next ſucceeding that to which the writ is returnable, or in the office on the firſt or ſecond rule day, and at no time thereafter. *a*

Exceptions to bail when to be made.

Defendants upon appearance may be ruled to give ſpecial bail.

XXII. AND upon appearance of the Defendant in any perſonal action, where the Plaintiff ſhall move that the Defendant may be held to ſpecial bail, the Court may, if they ſee cauſe, rule him to give bail accordingly, or commit him in cuſtody of the Sheriff or other Officer till ſuch bail be given; and the perſon and perſons becoming ſpecial bail, ſhall be liable to the judgment and recovery againſt ſuch Defendant, unleſs he render his body in execution in diſcharge of his bail. *a*

No bail to be demanded of a reſident in one county who is ſued in another, until a return of non eſt inventus.

XXIII. NO bail ſhall be demanded on a writ of *capias ad reſpondendum*, which ſhall be iſſued againſt a reſident of one County in any other, until a *non eſt inventus* has been returned in the County or Corporation in which the Defendant reſides, upon a *capias* iſſued in the ſame ſuit againſt ſuch Defendant, and every writ iſſued contrary thereto without an indorſement of "no bail required," ſhall be voidable at any time before iſſue joined, or judgment by default, *nil dicit* or *non ſum informatus* thereon, but not afterwards. *Proviſo.* *Provided*, that no ſuch writ iſſuing from the County or Corporation in which the cauſe of action accrued, ſhall be voidable by reaſon of bail being required thereon. *b*

Proviſo.

Any juſtice may take recognizance of ſpecial bail.

XXIV. ANY Juſtice of the Peace, when the Courts are not ſitting, may take recognizance of ſpecial bail in any action therein depending, which ſhall be returned by the Juſtice taking the ſame to the Clerk of the Court, before the next ſucceeding quarterly Court, to be filed with the papers in ſuch action. *c*

Exception to bail, how to be made.

XXV. IF the Plaintiff or his Attorney ſhall except to the ſufficiency of the bail ſo taken by a Juſtice out of Court, notice of ſuch intended exception ſhall be given to the Defendant or his Attorney, at leaſt five days previous to the day at which ſuch exception ſhall be taken; and if ſuch bail ſhall be adjudged inſufficient by the Court, the recognizance thereof ſhall be diſcharged, and ſuch proceedings ſhall be had, as if no ſuch bail had been taken. *c*

The ſame proceedings againſt bail and ſheriffs as in the Diſtrict Courts.

XXVI. THE ſame proceedings ſhall be had againſt the common bail and Sheriff, or other Officer in any ſuit, or either of them, their Executors or Adminiſtrators, and they or either of them may have the ſame remedy againſt the Defendant, or his Executors or Adminiſtrators, in the County and Corporation Courts at their quarterly ſeſſions, as is directed to be had in any Diſtrict Court in ſuch caſes. *c*

Rules to be held monthly in clerk's office. Rule days to be appointed by the courts.

XXVII. ALL imparlances to be taken, and pleadings to be filed, both in common Law and in Chancery, until an iſſue is joined, or interlocutory decree or judgment obtained, ſhall be done at rules to be held monthly in the Clerk's office, on ſuch days as the Courts at their reſpective quarter Seſſions, ſhall appoint; which rules ſhall be diſtinctly entered in a book, to be kept for that purpoſe, and the Clerk ſhall be allowed the ſame fees for entering ſuch rules, as if the ſame had been made in Court. *c*

Rules to be given from month to month in the office; but may be ſet aſide at the quarterly ſeſſions.

XXVIII. ALL rules to declare, plead, reply, rejoin, and for other proceedings, ſhall be given from month to month, and ſhall be made and entered with the Clerk of the Court, in the ſame manner as rules are made and entered with the Clerks of the Diſtrict Courts, in ſuits depending in them. *Provided nevertheleſs*, That the Court may at their quarterly Seſſion next after any of the ſaid rules and proceedings have been had in the Clerk's office, for good cauſe to them ſhewn, ſet aſide any of the ſaid rules and proceedings, and make ſuch order concerning the ſame, as to them may appear juſt and right. *c*

Office judgments, when to be ſet aſide.

XXIX. WHERE any final judgment ſhall be entered up in the office againſt any Defendant or Defendants and their ſecurities, or againſt any Defendant or Defendants and Sheriff or other Officer, by default, execution may iſſue thereon after the next ſucceeding quarterly Court, unleſs the ſame be ſet aſide during ſuch Court, in like manner as office judgments in the Diſtrict Courts may be ſet aſide; and all office judgments ſo ſet aſide, ſhall be immediately put at the end of the iſſue docket.

(*a*) 1748, *ch.* 4, *ſec.* 16, *amended.* (*b*) 1787, *ch.* 10, *ſec.* 4. (*c*) 1787, *ch.* 10, *ſec.* 2, *amended.*

Directions concerning writs of ſcire facias to revive judgments,

XXX. ON writs of *ſcire facias* for renewal of judgments, no judgment ſhall be rendered on the return of two nihils, unleſs the Defendant reſide in the County or Corporation, or unleſs he be abſent from the Commonwealth, and have no known Attorney within the ſame. But ſuch *ſcire facias* may be directed to the Sheriff or other Officer of any County or Corporation in this Commonwealth, wherein the Defendant or his Attorney ſhall reſide, or be found; which being returned ſerved, the Court may proceed to judgment thereon, as if the Defendant had reſided in the County or Corporation.

Rules in docketing cauſes.

XXXI. THE Clerk ſhall proportion the cauſes upon the docket, from the firſt day of the Court to the ſixth, both inclusive, if in his opinion ſo many days will be expended in trying the cauſes ready for trial, and iſſue *ſubpœnas* for witneſſes to attend the days to which the cauſes ſtand for trial. He ſhall docket the cauſes in order as they are put to iſſue, and no cauſe ſhall be removed from its place on the docket, unleſs where the Plaintiff at the calling the ſame, be unprepared for trial, in which caſe, and no other, ſhall the cauſe be put at the end of the docket. *a*

Proceſs where the defendant is not found.

XXXII. AND for the better aſcertaining what proceſs may be ſued out, where the Sheriff or other Officer returns that the Defendant is not to be found in his bailiwick: *It is hereby further enacted*, That where any Sheriff, or other Officer, ſhall make ſuch return, the Plaintiff or Plaintiffs in any civil action, ſhall and may ſue out an attachment againſt the eſtate of ſuch Defendant, returnable as hereinbefore is directed for the returns of original and other ſubſequent proceſs thereupon, to force an appearance, or an *alias* or *pluries capias*, at the election of the Plaintiff or Plaintiffs; and if the Sheriff or other Officer ſhall return any goods by him attached, the Plaintiff ſhall file his declaration, and be entitled to a judgment for his whole debt, and the goods ſo attached ſhall remain in cuſtody of the Sheriff till ſuch judgment obtained, and then be ſold and diſpoſed of, in the ſame manner as goods taken in execution upon a writ of *fieri facias*; and if the judgment ſhall not be ſatisfied by the goods attached, the Plaintiff may have an execution for the reſidue. *Provided always*, that all goods ſo attached, ſhall and may be replevied by the Defendant's giving bond and ſecurity to the Sheriff or other Officer attaching the ſame, in like manner as by Law is directed on the execution of meſne proceſs, or by the Defendant's appearance, and putting in good bail, if ruled by the Court to give ſpecial bail. But no Sheriff ſhall return upon any writ to him directed, that the Defendant is not found in his bailiwick, unleſs ſuch Sheriff or his Officer, ſhall have actually been at the dwelling-houſe, or place of abode of ſuch Defendant, and not finding him ſhall have there left an atteſted copy of the ſame writ or proceſs; and where any Defendant ſhall be a known inhabitant of another County, and not of the County of that Sheriff to whom the proceſs ſhall be directed, ſuch Sheriff ſhall return the truth of the caſe, but not that the perſon is not found in his County, and thereupon ſuch proceſs iſſued from any County Court Clerk's office, as to ſuch Defendant, ſhall abate and be diſmiſſed. *b*

When the ſheriff may return that the defendant is not found.

Declarations, &c. to be preſerved in the clerk's office.

XXXIII. THE Clerk of the Court ſhall carefully preſerve the declarations, pleas, evidences, and all other papers relating to any cauſe in Court, and they ſhall be all filed together in the office.

In land cauſes pleadings to be in writing and complete records to be made up.

XXXIV. IN all caſes where the title or bounds of any eſtate in land is determined, the pleadings ſhall be all in writing, and ſhall be entered at large with the judgment thereupon, in particular books kept for that purpoſe only.

Minutes of proceedings to be read in court and ſigned.

XXXV. AND for preventing errors in entering the judgments of the Court, the Juſtices, before every adjournment, ſhall cauſe the minutes of their proceedings to be publicly read by the Clerk, and corrected where neceſſary, and then the ſame ſhall be ſigned by the firſt Juſtice in commiſſion then ſitting; which minutes ſo ſigned, ſhall be taken in a book, and carefully preſerved among the records; and no proceedings or judgments of any Court, ſhall be of force, or vaſt until the ſame be ſo read and ſigned.

Suits ſhall not abate for want of form.

XXXVI. AND for prevention of delay and vexation, by dilatory pleas, *It is hereby further enacted and declared*, that in all perſonal actions, where the declaration ſhall plainly ſet forth ſufficient matter of ſubſtance for the Court to proceed upon the merits of the cauſe, the ſuit ſhall not abate for want of form;

Coſts upon a plea in abatement over-ruled.

and that where a plea in abatement ſhall be pleaded in any action, and upon argument the ſame ſhall be adjudged inſufficient, the Plaintiff or Plaintiffs in ſuch action ſhall recover againſt the Defendant or Defendants full coſts, to the time

(a) 1787, *ch.* 10. (b) 1748, *ch.* 4, *ſec.* 18. *ch.* 6, *ſec.* 5. 1748, *ch.* 4, *ſec.* 19.

of overruling such plea, including the costs of that Court, a Lawyer's fee only excepted. *a*

Method of recovering debts by petition.

XXXVII. ANY debt or penalty, amounting to more than five† dollars, or two hundred pounds of tobacco, and not exceeding twenty‡ dollars, or eight hundred pounds of tobacco, may be demanded by petition to the Court of a County, City, or Borough. The Clerk of the Court shall draw the petition, stating therein how the debt became due, or by breach of what Act of Assembly the penalty was incurred, and shall issue a summons directed to the Sheriff or other proper officer, commanding him to summon the Defendant to appear and answer the petition; and the Defendant being summoned ten days at least before the return day, and being at the same time served with a copy of the petition, together with a copy of the account which shall be filed, when the debt shall have arisen by account, the Court shall, and may hear and determine the matter in dispute in a summary way, and give such judgment as shall appear to be just. *b*

Detinue and trover for goods, or the value not exceeding twenty dollars shall be brought by petition.

XXXVIII. ANY person may, by petition, to be served and tried in like manner, demand and recover goods detained, or the value of them, and damages for the detention, or damages for goods found by the Defendant, and converted to his use, where the goods with the damages are not of greater value than twenty§ dollars, or eight hundred pounds of tobacco. Whosoever shall bring any other action than a petition, if it appear, either by his own shewing in the declaration, or by the verdict of a Jury, that he might have brought a petition by this Act, shall be non-suit. *c*

Plaintiff proceeding otherwise shall be nonsuit.

XXXIX. *AND be it further enacted*, That in all suits in the County or Corporation Courts in Chancery, the following rules and methods shall be put in practice and observed, to wit: *d*

Rules to be observed in the prosecution of suits in chancery.

XL. THE Complainant shall file his bill on the first rule day after the return of the *subpœna* executed, or upon the first appearance of the Defendant, upon pain of having the same dismissed by the Defendant; and if he shall fail to file the same within three months from the time of such return, the suit shall stand dismissed with costs.

XLI. UPON the Complainant's dismissing his bill, or the Defendant's dismissing the same for want of prosecution, the Defendant shall recover his costs. *e*

XLII. THE Complainant may amend his bill before the Defendant appears, or in a small matter, afterwards, without paying costs; but if he amend after appearance, and in a material point, whereby the Defendant shall be put to any extraordinary costs, such costs shall be paid before the complainant shall be at liberty to amend his bill. *e*

XLIII. IF any Defendant shall not appear upon attachment returned executed, or being brought into Court upon any such process, shall obstinately refuse to answer the Complainant's bill, such bill shall be taken for confessed, and the matter thereof decreed accordingly. *e*

XLIV. THE Defendant shall file his answer at the next rules after his appearance, and bill filed, and if no answer be then put in, an attachment may be awarded, returnable to the next Court; and if no answer be put in upon return of the attachment executed, the Complainant's bill shall be taken for confessed, and the matter thereof decreed. *e*

XLV. AND if the attachment be returned not executed, an attachment with proclamation shall be issued, and if upon the return thereof no answer shall be put in, the Complainant's bill shall be taken for confessed, and the matter decreed as aforesaid. *e*

XLVI. NO process of contempt shall issue without oath made of the service of the *subpœna*, unless the same be returned served by a sworn Officer. *e*

XLVII. IF the Defendant does not file his answer within three months after the Plaintiff shall have filed his bill, having also been served with the *subpœna* at least three months before the said time for filing his answer, the Plaintiff may proceed to take his bill for confessed, and proceed in the same manner as in the case of an attachment returned executed, or he may have a general commission to take depositions, or he may move the Court to bring in the Defendant to answer interrogatories, at his election, and proceed on to hearing in the

(*a*) 1748, *ch.* 4, *sec.* 20. † *Altered from* 25*s.* ‡ *Ditto* £5. (*b*) 1786, *ch.* 62. § *Altered from* £5. (*c*) 1786, *ch.* 62. (*d*) 1748, *ch.* 4, *sec.* 25. 1787, *ch.* 2, *sec.* 2. (*e*) 1748, *ch.* 4, *sec.* 25.

two laſt caſes, as if the anſwer had been filed, and the cauſe was at iſſue: *Provided*, that the Court for good cauſe ſhewn, may allow the anſwer to be filed, and grant a further day for ſuch hearing. *a*

XLVIII. EVERY Defendant ſhall be at liberty to ſwear to his anſwer, before any Juſtice of the Peace. *b*

XLIX. WHEN any croſs bill ſhall be preferred, the Defendant or Defendants in the firſt bill ſhall anſwer thereto, before the Defendant or Defendants in the ſecond bill ſhall be compellable to put in his or their anſwer to ſuch croſs bill. *b*

L. THE Complainant ſhall reply or file exceptions, at the next rules after the Defendant's putting in his anſwer; and if the Complainant ſhall not then reply, nor file exceptions, his bill ſhall be diſmiſſed with coſts. *b*

LI. WHEN the Complainant files exceptions againſt the anſwer of any Defendant or Defendants, as inſufficient, if the Defendant puts in a ſufficient anſwer at the next rules, the ſame ſhall be received without coſts, but if the Defendant's Attorney inſiſts on the ſufficiency of the anſwer put in, and neglects or refuſes to put in a ſufficient anſwer, or ſhall put in another inſufficient anſwer, the Plaintiff may ſet down his exceptions, to be argued the next Court; and after exceptions ſo filed, or any ſecond inſufficient anſwer put in, no further or other anſwer ſhall be received, but upon payment of coſts. *b*

LII. AND if upon argument, the Complainant's exceptions ſhall be overruled, or the Defendant's anſwer adjudged inſufficient, the Complainant ſhall pay to the Defendant, or the Defendant to the Complainant, as the caſe ſhall be, ſuch coſts as ſhall be allowed by the Court. *b*

LIII. UPON every ſecond anſwer adjudged inſufficient, coſts ſhall be doubled. If any Defendant ſhall put in a third inſufficient anſwer, which ſhall be ſo adjudged, ſuch Defendant ſhall be examined upon interrogatories, and committed till he ſhall perfectly anſwer thoſe interrogatories, and pay coſts. *b*

LIV. IF the Defendant after proceſs of contempt, put in an inſufficient anſwer, which ſhall be ſo adjudged, the Complainant ſhall not be obliged to take out a new *ſubpœna*, but may go on to the attachment with Proclamation, as if no anſwer had been put in. *b*

LV. WHERE the Complainant conceives ſufficient matter to be confeſſed by the Defendant's anſwer, he may ſet down the cauſe for, and proceed to hearing. *b*

LVI. AFTER anſwer filed, and no plea in abatement to the juriſdiction of the Court, no exception for want of juriſdiction ſhall ever afterwards be made, nor ſhall the High Court of Chancery, or any other Court ever thereafter, delay or refuſe juſtice, or reverſe the proceedings for want of juriſdiction, except in caſes of controverſy reſpecting lands lying without the juriſdiction of ſuch Court, and alſo of infants and *femes covert*. *c*

LVII. NO Defendant ſhall be admitted to put in a rejoinder, unleſs it be filed at the next rules after replication put in, but the Complainant may proceed to the examination of witneſſes. *d*

LVIII. AFTER an attachment with Proclamation returned, no plea or demurrer ſhall be received, unleſs by order of Court upon motion.

LIX. IF the Complainant conceives any plea or demurrer to be naught, either for the matter or manner of it, he may ſet it down to be argued; or if he thinks the plea good, but not true, he may take iſſue upon it, and proceed to proofs; and if ſuch plea ſhall be adjudged falſe, the Complainant ſhall have the ſame advantage as if the ſame plea were found falſe by verdict at the common Law. *d*

LX. IF a plea be pleaded, or demurrer put in, and over-ruled, no other plea or demurrer ſhall thereafter be received, but the Defendant ſhall anſwer the allegations of the bill. *d*

LXI. THE Complainant at the next rules after a plea or demurrer put in, may cauſe the ſame to be ſet down to be argued; but if the Complainant ſhall not proceed to have the ſame ſet down, before the ſecond Court after plea or demurrer put in, the bill may be diſmiſſed of courſe, with coſts. *d*

LXII. UPON a plea or demurrer argued and over-ruled, coſts ſhall be paid as where an anſwer ſhall be adjudged inſufficient, and the Defendant ſhall anſwer at the next rules; but if adjudged good, the Defendant ſhall have his coſts.

(*a*) 1787, *ch.* 9, *ſec.* 2. (*b*) 1748, *ch.* 4, *ſec.* 25. (*c*) 1787, *ch.* 9, *ſec.* 2. (*d*) 1748, *ch.* 4, *ſec.* 25. 1748, *ch.* 4.

LXIII. IF any Defendant ſhall obſtinately inſiſt on a demurrer, and refuſeth to anſwer, where the Court ſhall be of opinion that ſufficient matter is alledged in the bill to oblige him to anſwer, and for the Court to proceed upon, the bill ſhall be taken for confeſſed, and the matter thereof decreed accordingly. *a*

Iſſues to be tried when neceſſary.

LXIV. THE ſaid Court in its diſcretion may direct an iſſue to be tried at their own bar whenever it ſhall be judged neceſſary.

Right of appeal, how to be exerciſed.

LXV. THE right of appeal from the County and Corporation Courts to the High Court of Chancery, and to the Diſtrict Courts, ſhall be exerciſed in the ſame manner as preſcribed in the Acts "*Reducing into one the ſeveral Acts concerning the High Court of Chancery*, and, "*Reducing into one the ſeveral Acts concerning the eſtabliſhment, juriſdiction, and powers of Diſtrict Courts.*"

When the plaintiff appeals, ſpecial bail bound to anſwer the judgment of the diſtrict court.

LXVI. IF the Plaintiff or Demandant appeals, then the ſpecial bail given by the Defendant or Tenant in the County or Inferior Court, ſhall alſo ſtand bound to anſwer the judgment of the Diſtrict Court, and ſuch Appellant ſhall give bond with ſecurity, in the ſum of ſixty-three dollars and thirty-three cents, that he will proſecute his appeal with effect; and if he do not appear and proſecute the ſame, his bond ſhall be forfeited to the Defendant or Appellee. *a*

After iſſue joined no cauſe to be removed by certiorari or habeas corpus.

LXVII. NO writ or writs of *certiorari* ſhall be received or allowed by the Juſtices of any County Court or other Inferior Court, to whom any ſuch writ or writs ſhall be directed and delivered, nor ſhall any cauſe be removed by *habeas corpus* after iſſue or demurrer joined, in the cauſe or cauſes depending in ſuch Court or Courts, and intended to be removed by ſuch writ or writs, but they ſhall and may proceed in the ſaid cauſe or cauſes as though no ſuch writ had been ſued forth, or delivered to them or any of them; and if any cauſe be removed or ſtayed by ſuch writ, and afterwards the ſame cauſe ſhall be remanded, or ſent back again, by any writ of *procedendo*, or other writ whatſoever, ſuch cauſe ſhall never afterwards be removed, or ſtayed before judgment, by any other writ or writs whatſoever, to be ſued forth from either of the Diſtrict Courts, or from the High Court of Chancery. *a*

Rule reſpecting ſuits remanded.

Injunctions, how to be obtained.

LXVIII. BEFORE any injunction in Chancery ſhall be granted to ſtay proceedings at Law in any action, ſuit, or judgment whatſoever, in any County or Corporation Court, if the Court ſhall not be otherwiſe ſatisfied with the matter of equity, the party praying ſuch injunction ſhall make oath before the Court, or before ſome Magiſtrate, of the truth of the allegations of his injunction-bill; which affidavit ſhall be certified at the foot of the bill, and he, ſhe, or they, ſhall moreover enter into bond, with one or more ſufficient ſecurities, in the Clerk's office, for ſatisfying and paying all ſuch ſums of money and tobacco, and coſts, which ſhall be then due, or become due, to the Plaintiff or Plaintiffs, in the action, ſuit, or judgment, ſo to be ſtayed, and alſo for the payment of ſuch coſts as ſhall be awarded againſt him, her, or them, in caſe the injunction ſhall be diſſolved; and the Clerk ſhall endorſe on the *ſubpœna* that the bond is filed. *b*

Proceedings at common law ſhall conform to the practice of the diſtrict courts, and in chancery to that of the High Court of Chancery.

LXIX. THE proceedings of the ſaid Courts in common Law caſes, ſhall as nearly as may be, conform to the practice in the Diſtrict Courts. And in Chancery caſes, the ſame ſhall conform to the practice of the High Court of Chancery in like caſes, except in ſuch caſes as are or ſhall be otherwiſe particularly directed by any Act of the General Aſſembly.

Clerks ſhall iſſue executions on the application of any perſon obtaining judgment; and attachments againſt guardians, &c. failing to account.

LXX. THE Clerks of the ſeveral County and Corporation Courts in this Commonwealth ſhall be, and they are hereby empowered and required, upon the application of any party who hath obtained, or ſhall obtain any judgment, decree or final order in ſuch Courts, to iſſue any legal or proper writ of execution or attachment as the caſe may require, as alſo to iſſue attachments againſt Executors, Adminiſtrators, or Guardians, who ſhall fail to account when ordered ſo to do by ſuch Court, directed to the Sheriff of the ſame, or any other County, provided there be fifteen days at leaſt, and not more than ninety days, between the teſte and return of ſuch writ. *c*

Powers of Corporation courts not enlarged or abridged by this act.

What ſuits are cogniza. ble therein.

LXXI. NOTHING in this Act before contained, ſhall be conſtrued to enlarge, alter or abridge any of the powers, juriſdictions, or conſtitutions of any Court of any City, Town, Corporation, or Borough, within this Commonwealth, but the ſame ſhall remain as if this Act had not been made; any thing herein to the contrary, or ſeeming to the contrary notwithſtanding. *Provided always*, That the reſpective Corporation Courts, or Courts of Huſtings of any City,

(a) 1748, *ch.* 4, *ſec.* 25, 28. *(b)* 1748, *ch.* 5, *ſec.* 9. *(c)* 1772, *ch.* 5, *ſec.* 1.

Town, or Borough, shall have jurisdiction only in suits or controversies instituted between the respective inhabitants or citizens of such City, Town, or Borough, and between one or more of the inhabitants of such City, Town, or Borough, and any person or persons not an inhabitant or inhabitants of this Commonwealth, and in either case only where the contract hath been made, or the cause of action hath accrued, within such City, Town, or Borough; and in all such suits and controversies, their respective jurisdictions shall not be limited to any particular sum, but shall be co-extensive with the jurisdiction of the County Courts. *a*

Charters of Williamsburg and Norfolk not to be affected by this act.

LXXII. NOTHING in this Act before contained, shall be construed to prejudice, or in any manner affect the charters of the City of *Williamsburg* and Borough of *Norfolk*, or either of them. *a*

Magistrates of corporations and common-councilmen not to act as justices of any county. Exception.

LXXIII. NO person being a Member of any Corporation Court, Court of Hustings, or Common-Councilman of any City, Town, or Borough whatsoever, within this Commonwealth, except Common-Councilmen of the City of *Williamsburg*, or Borough of *Norfolk*, shall, while a Member of such Corporation Court, Court of Hustings, or Common-Council, be capable of acting as a Justice of any County Court. *a*

Lists of fines imposed by the courts to be sent to the auditor.

LXXIV. THE Clerks of the several County and Corporation Courts, shall annually, on or before the first day of *July*, transmit to the Auditor a list of all fines imposed by their respective Courts within the next preceding year; and if no fine shall have been imposed within such period, the Clerk shall certify accordingly. Every Clerk failing to perform the aforesaid duty, shall forfeit and pay one hundred and fifty dollars, to be recovered by the Auditor, on motion to the General Court, and applied to the use of the Commonwealth, provided ten days previous notice be given in writing of every such motion. *b*

Former acts repealed.

LXXV. ALL and every Act, clause and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

LXXVI. THIS Act shall commence and be in force, from and after the first day of *May*, one thousand seven hundred and ninety-three.

CHAP. LXVIII.

*An Act reducing into one, the several Acts concerning the Adjournment and Places of Session of certain Courts in certain Cases.**

[Passed the 17th of October, 1792.]

Governor and Council may by proclamation change the place of holding the courts of appeals, and chancery, & the general court, and the time of their meeting.

I. BE *it enacted by the General Assembly*, That so often as it shall appear necessary, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation, bearing date one month at least before the first day of meeting, and dispersed throughout the several Counties, to cause the Court of Appeals, the High Court of Chancery, and the General Court, to meet at any convenient place within this Commonwealth, there to hold their respective Sessions immediately succeeding each Proclamation. If it shall so happen that the cause of adjournment shall occur within the space of a month next preceding the day of meeting, it shall be lawful for the Governor, with the advice of the Council of State, by a Proclamation dispersed as aforesaid, to postpone the time of meeting beyond the day, taking care that one month at least shall intervene between the date thereof, and such new day, and that the new day does not fall within the month next preceding the stated term. *c*

Judges may adjourn if they think they cannot sit with safety.

II. IF after a Session begun, a majority of the Judges of the aforesaid Courts who are present, shall be of opinion, and so record, that they cannot sit with safety at the place fixed by Law, or the Proclamation aforesaid, it shall be lawful for them to adjourn to the succeeding Term; and thereupon all business shall stand continued over.

Copies of the proclamations to be sent to the judges.

III. COPIES of any Proclamation of adjournment shall be sent under signature of the Governor, and Seal of the Commonwealth, to each of the Judges aforesaid, whose Court may be so adjourned.

No discontinuance if courts not held in usual terms.

IV. THERE shall be no discontinuance in any proceeding whatsoever, if the Courts aforesaid, or either of them, should not be holden in their usual terms.

Executive may direct courts to be held in other buildings, when

V. IT shall in like manner be lawful for the Executive, whensoever any building or buildings duly appointed for the holding of any Court shall be destroyed, by Proclamation to direct such Court to be holden in any other build-

(a) 1787, *ch.* 97, *sec.* 2, 3, 1. 1788, *ch.* 76. *(b)* 1787, *ch.* 40, *sec.* 15.

* *Does not extend to District Courts. qu. See sec.* 5. *(c) May*, 1781, *ch.* 1.

those erected for the purpose are destroyed. Proviso.

ing or buildings, until the building or buildings so destroyed shall be re-built. *Provided always*, that the Court of Appeals, High Court of Chancery, and General Court, shall continue to be holden in such case, in the City of *Richmond*; the District Courts in the Counties in which they are appointed to be holden by Law; and the County and Corporation Courts within their respective Counties and Jurisdictions *a*

Repealing clause.

VI. ALL and every Act and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

VII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXIX.

An Act to reduce into one, the several Acts declaring who shall be Conservators of the Peace within this Commonwealth.

[Passed the 17th of October, 1792.]

Who shall be conservators of the peace.

I. BE *it enacted by the General Assembly*, That the Judges of the Court of Appeals, High Court of Chancery, and General Court, shall be Conservators of the Peace throughout the Commonwealth; and the Justices of the Peace in each County and Corporation shall be Conservators of the Peace within their several Counties and Corporations, respectively; and the said Judges and Justices within the limits aforesaid, respectively, shall have power to demand of such persons as are not of good fame, sufficient surety and mainprize of their good behaviour. *b*

May demand of persons of evil fame, security of their good behaviour.

Repealing clause.

II. EVERY Act, clause, and part of any Act, within the purview of this Act, shall be, and the same is hereby repealed.

Commencement of this act.

III. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXX.

An Act to reduce into one, all Acts and Parts of Acts respecting County and Corporation Clerks.

[Passed the 2d of November, 1792.]

Clerks of county and other inferior courts, how qualified.

I. BE *it enacted by the General Assembly*, That every person hereafter admitted into office by any County or other Inferior Court, as Clerk or Deputy-Clerk of such Court, shall at the time of his admission, or appointment to such office, take the following oath:

I, A. B do swear that I will well and truly exercise the office of according to the best of my skill and judgment, making due entries and record of all orders, judgments, decrees, opinions or proceedings of the Court, and carefully filing and preserving in my office, all books and papers whatsoever, which shall be delivered me in charge, or otherwise come to my hands or possession by virtue of my said office; and that I will not wittingly or willingly commit any malfeasance of office, but in all things and at all times keep my said office free and accessible to every person having a right or claim to business therein, and faithfully execute the duties thereof, without favor, affection, or partiality. So help me GOD.

Penalty for acting without qualifying.

And if any person shall presume to execute the office of Clerk or Deputy Clerk of any County, or other Inferior Court, without taking such oath, he shall forfeit and pay fifteen hundred dollars, and suffer one year's imprisonment without bail or mainprize. *c*

How punished for making false entries or altering records.

II. IF any Clerk shall wittingly make any false entry, or raze, alter or change any record in his keeping belonging to his office, every such Clerk so offending shall be amerced and imprisoned at the discretion of a Jury; and shall moreover be liable to the action of the party grieved. And if any judgment be reversed, by reason of any such false entry, rasure, alteration, or change, the party grieved may sue by writ of error, or otherwise according to Law, if he see it expedient for him. *d*

Party injured, how to be relieved.

Bond and security to be given by clerks when appointed.

Condition.

III. EVERY Clerk of a County or other Inferior Court shall, at the time of his appointment and qualification as aforesaid, enter into bond, with security, to be approved of by the Court, in the penalty of three thousand dollars, payable to the Governor and his successors, for the time being, with condition for

(*a*) 1788, *ch.* 73. (*b*) 1789, *ch.* 30, *sec.* 16. (*c*) *Oct.* 1784, *ch.* 60, *sec.* 2. (*d*) *Stat.* 8. *R.* 2, *ch.* 4.

the due and faithful execution of his office, and that he will not remove or carry, or ſuffer to be carried or removed out of the County or Corporation, the records and papers of the Court whereof he is Clerk, or any part thereof, except in caſes allowed by Law; which bond ſhall by ſuch Clerk be tranſmitted within three months to† the Clerk of the Court of the Diſtrict in which the ſaid County or Corporation may be, to be by him regiſtered and preſerved among the papers of his office, and may be proſecuted upon againſt any ſuch Clerk and his ſecurities, in the name of the Governor, or his ſucceſſors, for the uſe of any perſon or perſons who ſhall or may be injured, at his, her, or their coſts and charges, who ſhall and may recover all damages which he, ſhe, or they may have ſuſtained by reaſon of the breach of the condition of the ſaid bond; and ſuch bond ſhall not become void upon the firſt recovery, or if judgment ſhall be given againſt any Plaintiff or Plaintiffs who ſhall ſue on ſuch bond, but may be put in ſuit and proſecuted from time to time, for the benefit and at the proper coſts and charges of any party injured, until the whole ſum of three thouſand dollars, the penalty expreſſed in ſuch bond, ſhall be recovered; and ſuch Clerk failing to tranſmit ſuch bond to the Clerk of the ſaid Diſtrict Court for the time being, within the term aforeſaid, ſhall forfeit and pay three hundred dollars, or preſuming to execute his office without entering into ſuch bond, ſhall forfeit and pay ſix hundred dollars, and ſuffer three months impriſonment. *a*

To be tranſmitted to the clerks of the Diſtrict courts.

Penalty on clerks for failure.

IV. IT ſhall not be lawful for the Court of any County or Corporation, or the Clerk of any ſuch Court, to remove, or cauſe to be removed, the records and papers of the ſame, or any part thereof, without the County or Corporation, except in caſes of actual invaſion or inſurrection, where in the opinion of the Court the ſame will be endangered, or where for want of ſuch opinion, occaſioned by the ſuddenneſs of the alarm or danger, the Clerk ſhall at his own diſcretion remove the ſame, returning them as ſoon as the alarm or danger ceaſes, or except alſo in other caſes heretofore provided for by Law; any Member of a Court, or Clerk of the ſame, offending herein, ſhall forfeit and pay ſix hundred dollars. *b*

Records of County courts not to be removed out of the county, except in invaſions or inſurrections.

V. EVERY Clerk appointed ſince the fourth day of *June*, one thouſand ſeven hundred and ſeventy-ſix, ſhall reſide within the County or Corporation in which he ſhall hold his office; and every Clerk of a County or Corporation Court, ſhall keep his office at the Court-houſe of the County in which he reſides, or at ſuch other convenient place, as the Court of the County or Corporation may direct, under penalty of being incapacitated therefrom, by information in the General Court. *Provided always*, that the Clerks of County and Corporation Courts may keep their ſeveral offices at any place within their reſpective Counties or Corporations, until otherwiſe directed by their Courts as aforeſaid, and until an office built with brick and covered with tile, lead, or ſlate, with ſo much land as the Court ſhall judge neceſſary thereunto appurtenant, ſhall be provided for the uſe of the ſaid Clerks and their ſucceſſors, at the expenſe of their Counties or Corporations reſpectively, to be aſſeſſed in their levies. *b*

Clerks appointed ſince June 1776, to reſide in their counties.

Where the clerks of county courts ſhall keep their offices.

VI. ALL the penalties by this Act impoſed, ſhall be proſecuted for, and recovered by bill, plaint, or information, in any Court of Record, one moiety to the uſe of the Informer, and the other moiety to the uſe of the Commonwealth. *b*

Penalties how to be recovered.

VII. THE Clerks of the ſeveral Courts aforeſaid, ſhall reſpectively, on or before the firſt day of *April*, and firſt day of *October*, in every year, account for on oath, and pay into the Public Treaſury, all the monies which by an Act, intituled, "*An Act to reduce into one, the ſeveral Acts concerning the public Revenue*," they are authoriſed to receive, after a deduction of five *per centum* therefrom, as a commiſſion for the ſervice thereby impoſed, and in caſe of fraud therein by any Clerk, he ſhall, on conviction thereof, be deprived of his office. *c*

When the clerks are to account for the public monies received by them.

Puniſhment in caſe of fraud therein.

VIII. WHENSOEVER the Court of any County or Corporation within this Commonwealth ſhall be ſo divided in the appointment of a Clerk, that neither of the Candidates ſhall be elected, the High Sheriff of ſuch County, or the preſiding Magiſtrate of ſuch Corporation Court, ſhall decide in favor of one of thoſe Candidates, between whom the Court ſhall be divided. *d*

How a clerk is to be appointed when the court is equally divided.

IX. THE Juſtices of the ſeveral County and Corporation Courts, ſhall annually appoint two or more fit perſons of their number, to inſpect the Clerk's office of their County or Corporation, and to report to the next Court, the condition in which they find the Papers and Records. *e*

Clerks offices to be annually inſpected.

† *By former law directed to be tranſmitted to Clerk of Council. Much altered from former law.* (*a*) 1784, *ch.* 60, *ſec.* 3. (*b*) 1784, *ch.* 60, *ſec.* 4, 5. (*c*) 1794, *ch.* 47, *ſec.* 4. (*d*) 1787, *ch.* 23, *ſec.* 1, 2. *A little amended.* (*e*) 1785, *ch.* 1, *ſec.* 14.

Clerks to keep lists of executions in books, and constantly carry them to their court.

X. THE Clerk of every County or Corporation Court, shall enter in a docket or book to be kept by him for that purpose, a list of all executions by him issued, the name of the person to whom delivered, and what return is made thereon, in case the same be returned, and shall constantly carry the said book to his Court. *a*

Repealing clause.

Proviso.

XI. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this act.

XII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXI.

An Act concerning Counsel and Attornies at Law.†

[Passed the 19th of November, 1792.]

Method of obtaining a license.

I. FOR prescribing the mode of licensing Counsel and Attornies at Law, and regulating their practice, *Be it enacted by the General Assembly*, That before any person shall be licensed to practise as Counsel or Attorney at Law, in any of the Courts of this Commonwealth, he shall produce to those authorised hereby to grant licenses, a certificate from the Court of that County, where he hath usually resided for the last preceding twelve months, that he is a person of honest demeanor, and is upwards of twenty-one years of age; and three of the Judges of the Superior Courts upon such certificates being produced to them, may, and they are hereby authorised and empowered, to grant to the person producing the same, a license under their hands and seals, to practise the Law in the Superior and Inferior Courts of this Commonwealth, if after examination they shall be of opinion that he is duly qualified. *b*

Counsel and attornies, how qualified.

II. EVERY Counsel and Attorney before he shall be permitted to practise in any of the Courts of this Commonwealth, shall first produce his license in each Court where he intends to practise, and in the presence of such Court shall give assurance of fidelity to the Commonwealth, and shall moreover take the following oath of office, to wit:

I, A. B. *do solemnly swear, that I will honestly demean myself in the Practice of the Law, as Counsel or Attorney, and will in all respects execute my office, according to the best of my knowledge and abilities. b*

Penalty for practising without qualifying.

If any person shall presume to practise as Counsel or Attorney in any of the said Courts without a license first obtained as aforesaid, or without qualifying himself in such Court in the manner before directed, he shall for every such offence forfeit and pay the sum of one hundred and fifty dollars for every cause he shall prosecute or defend in any of the said Courts; one moiety to the use of the Informer, the other moiety to the use of the Commonwealth, to be recovered by action of debt in any Court of Record. *c*

Who incapable of obtaining a license or practising.

III. EVERY person that hath already been, or shall hereafter be convicted of any felonious crime, shall be incapable of obtaining such license, or if licensed, the Judges of any Court, in which such person may practise, on proof thereof being made to them, may supersede his license. *c*

Licenses of Counsel and Attornies may be suspended or vacated for mal-practices.

IV. IF the Judges of the General Court, either in the General Court or District Courts, from their own observation, detect any mal-practice in either of the said Courts, in any Counsel or Attorney of those Courts, or either of them, or if a complaint in writing be made to them of such mal-practice in the said Courts, or in the Court of any County or Corporation, the party accused shall be summoned to shew cause why an information should not be filed against him. And if such information should be ordered, and the Counsel or Attorney thus offending, should be found guilty of the matter therein charged, the said Judges either in the General Court or District Courts, as the case may happen, may either suspend his license, during a certain time, or vacate it altogether, as they shall judge most proper. The Judges of the Court of Ap-

(*a*) 1764, *ch.* 6. *sec.* 11. † *By act of* 1799, *ch.* 23, *attornies prosecuting on behalf of Commonwealth, to be appointed by the courts.* (*b*) 1786, *ch.* 56. (*c*) 1761, *ch.* 3. *sec.* 3, 4.

peals, and of the High Court of Chancery, shall have the like power, over Counsel and Attornies practising at the bars of their respective Courts, and in case an information should be directed by the Judges of either of the said Courts; they may cause a Jury to be impannelled to try such information, in like manner as informations are tried in the General Court, or in the District Courts. *Provided always*, That nothing herein contained shall be construed to hinder the Justices of any County Court, or other Inferior Courts, from causing any Attorney practising in such Courts to find security for his good behaviour, or fining such Counsel or Attornies for misdemeanor, or contempts offered to them, in the same manner as if this Act had never been made. *a*

Power of County Courts over Attornies practising therein.

V. NO Counsel or Attorney who shall prosecute any suit in an Inferior Court, in which an appeal may be prayed, shall be permitted to appear, or prosecute such appeal in any Superior Court, to which the same may be carried or removed; and any Counsel or Attorney who shall appear to, or prosecute such appeal in any Superior Court, shall forfeit the sum of sixty dollars, to be recovered with costs by action of debt in any Court of Record within this Commonwealth. The whole penalty shall be appropriated to him, who will sue for and recover the same. *b*

Appellants Attorney in the Inferior Court, not to prosecute the appeal under penalty.

VI. IF any suit shall be dismissed for the non-attendance of an Attorney practising either in the Superior or Inferior Courts, not having a just and reasonable excuse, it shall be at his costs, and he shall moreover be liable for all damages his client shall sustain by such dismission, or any other neglect of his duty, to be recovered in any Court of Record within this Commonwealth. *c*

Attornies to pay costs of suits dismissed for their non-attendance, and liable to party for damages.

VII. AND every Attorney receiving money for his Client, and refusing to pay the same when demanded, shall be proceeded against in a summary way, on notice before any Court of Record, in the same manner as Sheriffs are liable to be proceeded against for money received on executions. *c*

May be proceeded against in a summary way for money received for their clients.

VIII. IN all cases where the Sheriff is authorised by Law to take the engagement of an Attorney indorsed upon the writ, that he such Attorney will appear for the Defendant or Defendants, every Attorney thus entering into such engagement, who shall fail to enter an appearance agreeable thereto, shall forfeit to the Defendant or Defendants eight dollars, for which judgment shall be immediately entered, and execution may issue thereon. *d*

Penalty on Attornies engaging to appear for defendants and failing.

IX. THE Judges of the General Court, of the District Courts, and the Justices of the County or other Inferior Courts, shall not suffer in suits hereafter to be commenced, more than two Attornies to argue on any one side, except in criminal cases, unless good cause be shewn for departing from this regulation. *e*

Only two Attornies of a side.

Exception.

X. IF any Attorney or other person practising as an Attorney, shall presume to appear under any Power of Attorney made before action brought, for confessing or suffering judgment to pass by default or otherwise, for any Defendant in any Court of Record within this Commonwealth, such Attorney shall for every such offence forfeit and pay fifteen hundred dollars to such Defendant, for his own use, to be recovered with costs, by action of debt or information in any Court of Record, and moreover shall be liable to an action for damages at the suit of the party grieved. *f*

Power of Attorney to confess judgment before suit brought, void.

XI. NO Justice of Peace, Sheriff, Under-Sheriff, or Clerk of any County Court, shall appear or plead as Attorney for any person or persons whatsoever, in the Court of the County whereof he is a Member, Officer, or Clerk, except only as general Attorney for any person or persons not residing or being within this Commonwealth, under penalty of being fined by such Court in the sum of thirty dollars for every such offence, to the use of the same County towards lessening the levy thereof. *g*

No Justice or officer to appear as Attorney in the court whereof he is a member or officer.

Exception.

XII. THE Lawyers in this Commonwealth shall not demand, nor directly or indirectly, or by any device, way or means whatsoever, take or receive before the suit or suits they are or shall be employed in, shall be finally determined, any greater or other fees or rewards for the following services, than what are herein particularly mentioned and expressed, that is to say: Lawyers practising in the General Court may demand and receive for an opinion or advice, where no suit is, or shall be brought and prosecuted or defended, by the Attorney giving such advice, but not otherwise, three dollars and fifty-eight cents; and in any suit other than where the title or bounds of land shall or may come

Lawyer's fees.

In the General Court.

(*a*) 1786, *ch.* 56. 1761, *ch.* 3, *sec.* 7. (*b*) 1788, *ch.* 50. (*c*) 1787, *ch.* 10. (*d*) 1788, *ch.* 67, *sec.* 27. (*e*) *From* 1761, *ch.* 3, *sec.* 11. (*f*) 1743, *ch.* 5. *sec.* 7. (*g*) 1748, *ch.* 4, *sec.* 29.

In the High Court of Chancery. In the Diſtrict Courts. In the County Courts.

in queſtion, eight dollars and thirty-three cents; in thoſe where the title or bounds of lands, ſhall or may come in queſtion, ſixteen dollars and ſixty-ſix cents; in any ſuit in Chancery, the fee laſt mentioned; in any ſuit in a Diſtrict Court, where the title or bounds of land ſhall or may come in queſtion, five dollars; and in all other caſes two dollars and fifty cents, except in cauſes tranſferred from the General Court, in which the fee ſhall be the ſame as in the General Court. And Lawyers practiſing in the County Courts, or other Inferior Courts, for ſervices to be by them done in ſuch Courts, may demand for an opinion or advice, where no ſuit is or ſhall be brought or proſecuted, or defended, by the Attorney giving ſuch advice, but not otherwiſe, one dollar and ſixty-ſeven cents; and in any ſuit at common Law, other than the actions hereafter mentioned, or by petition, two dollars and fifty cents; in all Chancery ſuits, or real, mixed, or perſonal actions, where the title or bounds of lands, ſhall or may come in queſtion, five dollars; on a petition for a ſmall debt, one dollar and twenty-five cents; and any Lawyer for attending a ſurvey in the Country, for every day he ſhall attend, may demand three dollars and fifty-eight cents, which laſt mentioned fee may be taxed in the bill of coſts. And every Lawyer exacting, taking, receiving, or demanding, any greater fee, or other reward, for any of the above ſervices, before he has performed the ſaid ſervices, or finiſhed the ſaid ſuits, ſhall forfeit and pay one hundred and fifty dollars for every offence; one half to the Governor, for the time being, for the uſe of the Commonwealth, and the other half to the Informer, to be recovered by action of debt or information in any Court of Record within this Commonwealth. *a*

Not to recover more than the legal fees.

XIII. NO Lawyer in any ſuit to be brought for his fees or ſervices, ſhall recover more than the fees above-mentioned, notwithſtanding any agreement, contract, or obligation, made or entered into by the party againſt whom ſuch ſuit ſhall be brought. *a*

Lawyer's fees to be taxed in the bills of coſts.

XIV. THE Clerks of the High Court of Chancery and General Court reſpectively, ſhall tax in the bill of coſts on all decrees obtained in the former, and on all judgments in the latter, in any action wherein the title or bounds of land ſhall or may come in queſtion, a fee of ſixteen dollars and ſixty-ſix cents, and in all other caſes in the ſaid laſt mentioned Court, the Clerk ſhall tax a fee of eight dollars and thirty-three cents, where the party obtaining ſuch decree or judgment employed a Lawyer, except againſt Executors or Adminiſtrators, or where the Plaintiff may not recover more coſts than damages; and the Clerks of the reſpective Diſtrict Courts, and County Courts, or other Inferior Courts, ſhall tax in the bill of coſts in all judgments in any action where the title or bounds of land ſhall or may come in queſtion, and on all Decrees in Chancery, either when the Plaintiff ſhall recover or be non-ſuited, or where his ſuit ſhall be diſmiſſed, five dollars; and in all other actions or ſuits, except ſuch as are brought by petition in the County or other Inferior Courts, two dollars and fifty cents, for an Attorney's fee, if the party employed one, except againſt Executors or Adminiſtrators, or where the Plaintiff may not recover more coſts than damages; and except alſo ſuch ſuits as have been transferred from the General Court to the Diſtrict Courts, in which laſt mentioned ſuits the ſame fees ſhall be taxed as if they had been determined in the General Court. And in all ſuits by petition, the Clerks of the ſaid County Courts, and other Inferior Courts, ſhall tax in the bill of coſts, where an Attorney ſhall be employed, one dollar and twenty-five cents as an Attorney's fee, againſt the party who ſhall be caſt, except againſt Executors or Adminiſtrators. *b*

Repealing clauſe.

XV. ALL and every Act and Acts, clauſe or clauſes of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing in this Act contained ſhall be conſtrued to repeal any Act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this Act.

XVI. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

(a) 1761, *ch.* 3, *ſec.* 11, 12. *(b) Taken from* 1764, *ch.* 15, *ſec* 3.

CHAP. LXXII.

An Act reducing into one Act, the ſeveral Acts directing the Manner of Proceeding in Caſes of Impeachment.

[Paſſed the 18th of October, 1792.]

Proceſs in impeachments.

I. BE *it enacted by the General Aſſembly*, That the proceſs againſt any perſon impeached by Reſolution of the Houſe of Delegates, ſhall be ſummons, attachment and diſtreſs, bearing teſte, the firſt of them, the day of emanation, and the others, the return day of the proceſs preceding, and ſhall be iſſued and ſigned by the Clerk of that Court where ſuch impeachment is, by the Conſtitution, directed to be tried, as ſoon as ſuch impeachment ſhall be notified to him by the Attorney-General, or any other perſon or perſons appointed by the Houſe of Delegates to proſecute the ſame. *a*

Copy of the articles to be delivered to the party accuſed.

II. A COPY of the articles of impeachment ſhall be delivered to the party accuſed, whenſoever he ſhall require it, and the Court ſhall from time to time make ſuch rules for compelling him to anſwer, and bring the matter to iſſue ſpeedily, as to them ſhall ſeem reaſonable. *a*

The court may haſten the iſſue and trial.

None to be found guilty but by a jury.

III. NO perſon ſhall be found guilty on an impeachment, but by a Jury, for which purpoſe, as ſoon as any matter of fact ſhall be put in iſſue, the Clerk of ſuch Court ſhall iſſue a *venire facias* to the Sheriffs of the Senatorial Diſtrict, wherein the perſon accuſed reſides, commanding them to ſummon in their Counties to the firſt day of the next ſucceeding Court, in proportions as nearly equal as poſſible, twenty-four Jurors qualified according to Law for the trial of other criminal caſes, which proceſs may be repeated by order of the Court as often as it ſhall be neceſſary. The proſecutor for the Commonwealth, and the perſon accuſed, ſhall in open Court, alternately ſtrike one, until the number ſhall be reduced to twelve: which remaining twelve ſhall be a Jury, and ſhall try the impeachment, render a verdict, and proceed in the ſame manner as is preſcribed in the caſe of an indictment in the Diſtrict Courts. The Jurors ſhall have the ſame allowance, and be ſubject to like penalties as in the caſe of veniremen, attending Diſtrict Courts. If twenty-four Jurors ſhould not appear, bystanders may be ſummoned to make up the deficiency. *b*

Jury, how to be ſummoned.

Party accuſed may have counſel.

IV. THE party accuſed may have one or more Counſel without petitioning the ſaid Court. *b*

May challenge jurors.

V. A PERSON impeached may for good cauſe, challenge a Juror either before or after the names ſhall be ſtruck. *b*

No impeachment ſhall be tried during the Seſſion of the Aſſembly.

VI. NO impeachment ſhall be tried during the Seſſion of the General Aſſembly, unleſs the party accuſed ſhall requeſt it. *b*

Perſons found guilty on impeachments, how to be puniſhed.

VII. A PERSON found guilty on impeachment, ſhall be either for ever diſabled to hold any office under Government, or removed from ſuch office, *pro tempore*, or ſubjected to ſuch pains or penalties as any Act of the General Aſſembly may direct. *c*

Repealing clauſe.

VIII. ALL and every Act, within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this Act.

IX. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. LXXIII.

An Act concerning Grand Juries, Petit Juries, and Venire-Men.†

[Paſſed the 29th of November, 1792.]

Grand Juries to be ſummoned to every Diſtrict Court.

I. FOR the more regular enquiry into breaches of penal Laws, and trials of matters of fact in the ſeveral Courts of Juſtice within this Commonwealth, by Juries; *Be it enacted by the General Aſſembly*, That the Sheriff of each County, where a Diſtrict Court is appointed to be holden, ſhall before every ſitting of ſuch Court, ſummon twenty-four of the moſt diſcreet Freeholders of the Diſtrict, not being Ordinary Keepers, Conſtables,‡ Surveyors of Highways, or Occupiers of Mills, to appear at the ſucceeding Diſtrict Court, on the firſt

(*a*) *Conſtitution, art.* 16, 17. 1788, *ch.* 67, *ſec.* 128, 129, 130. *ib. ch.* 68, *ſec.* 5, 6, 7. 1789, *ch.* 40. (*b*) 1788, *ch.* 68, *ſec.* 5, 6, 7. (*c*) *Conſt. art.* 16. † *See acts of* 1795, *ch.* 10. ‡ *By act of* '95, *pa.* 16, *ſec.* 3, *Conſtables are diſqualified in Diſtrict and General Court.*

day thereof, which the ſaid Sheriff is hereby empowered to do, as well without his County as within the ſame; and the ſaid twenty-four Freeholders, or any ſixteen of them, ſhall be a Grand Jury, who ſhall be ſworn to enquire of and preſent all Treaſons, Murders, Felonies, or other Miſdemeanors whatſoever, which ſhall have been committed or done within the Diſtrict, for which they are impannelled; and if a ſufficient number of the ſaid Freeholders ſhould not attend on the firſt day of the Court, the Sheriff ſhall ſummon from the by-ſtanding Freeholders, qualified according to Law, a ſufficient number to form together with ſuch of the firſt mentioned Freeholders as do attend, a Grand Jury. *a*

Their duty.

By ſtanders may be ſummoned if all the jurors do not attend.

Grand jurors to be ſummoned to every quarterly ſeſſion of the County Courts.

II. THE Sheriff of each County, and the Serjeants of the Cities of *Williamsburg*, *Richmond*, and Borough of *Norfolk*, and other Corporations within this Commonwealth, ſhall before every Quarter Seſſion of the County or Corporation Courts, reſpectively ſummon twenty-four Freeholders of his County or Corporation, not being Ordinary Keepers, Conſtables, Surveyors of Highways, or Owners or Occupiers of a Mill, out of which number ſhall be impannelled a Grand Jury of ſixteen at the leaſt, who ſhall be ſworn to enquire into the breach of penal Laws, and make preſentment of the offenders; but ſhall preſent ſuch offences and breaches only, as ſhall have been committed within the ſpace of twelve months before the time of ſuch preſentment, unleſs the ſame be otherwiſe directed by Law; and ſuch Grand Juries having preſented all ſuch matters as come to their knowledge, ſhall be diſcharged, always obſerving that when they make preſentment, to write the name and ſurname of the Proſecutor or Informer, and the Town or County in which he ſhall reſide, with his title or profeſſion, under ſuch preſentment, for the more effectual proſecution thereof. *b*

Their duty.

Oath to be adminiſtered to the foreman of every Grand Jury.

III. AN oath in the following words, ſhall be adminiſtered to the foreman of a Grand Jury:

YOU, as foreman of this inqueſt, ſhall diligently enquire into, and true preſentment make of all ſuch matters and things as ſhall be given you in charge, or otherwiſe come to your knowledge, touching the preſent ſervice; you ſhall preſent no perſon through malice, hatred or ill-will; nor ſhall you leave any unpreſented through fear favor, or affection, or for any reward, hope or promiſe thereof: but in all your preſentments, you ſhall preſent the truth, the whole truth, and nothing but the truth, according to the beſt of your ſkill and underſtanding. So help you GOD. *c*

To the other jurors.

The following Oath ſhall be adminiſtered to the other Jurors:

THE ſame oath that A. B *your foreman, hath now taken before you on his part, you and each of you ſhall well and truly obſerve and keep on your reſpective parts.* So help you GOD.

Inhabitants of a corporate town not to act as grand jurymen of the county.

IV. *PROVIDED*, That the Inhabitants of any Corporate Town, ſhall not be Grand Jurymen for the County in which ſuch Corporate Town ſhall be.

What offences may be preſented by grand juries of county courts.

V. EVERY ſuch Grand Jury for a County or Corporation, ſhall and may preſent all offences made penal by the Laws of this Commonwealth, although the recovery of the fines for ſuch offences ſhall be otherwiſe directed by the Laws inflicting the ſame; and although the forfeiture or penalty thereby inflicted, ſhall not amount to five dollars, or two hundred pounds of tobacco.

Method of proſecuting preſentments in the county and diſtrict courts, where the penalties do not exceed certain ſums.

VI. IN a preſentment to the County or Corporation Court, if the penalty of the offence exceed not five dollars, or three hundred pounds of tobacco, or to the Diſtrict Court, if the penalty exceed not twenty dollars, or one thouſand pounds of tobacco, no information thereupon ſhall be filed, but a ſummons ſhall be iſſued againſt the Defendant to anſwer the preſentment, and ſuch ſummons having been ſerved upon him, or a copy thereof having been left at the place of his uſual abode, where the proſecution ſhall be in the County or Corporation Court, at leaſt ten days before the return day, if he do not appear, judgment ſhall be entered againſt him for the penalty, and if he do appear, the Court ſhall in a ſummary way, without a Jury, hear and determine the matter of the preſentment, in the form in which it ſhall have been made, and give judgment thereupon according to Law, and the very right of the cauſe, diſregarding any exception that may or might be taken to the form of the preſentment. *d*

Penalty on a perſon ſummoned as a grand juror and failing to attend

VII. EVERY Freeholder ſummoned to appear on a Grand Jury as aforeſaid, and failing to attend, not having a reaſonable excuſe, ſhall be fined by the Courts reſpectively, not exceeding eight dollars, unleſs good cauſe be ſhewn to the contrary, at or before the next Court, to the uſe of the Commonwealth. *e*

Grand jurors privileged from arreſts.

VIII. GRAND JURORS ſhall be privileged from arreſts in all caſes, except Treaſon, Felony, and breaches of the Peace during their attendance at

(*a*) *22d George 2d, ch. 7, ſec.* 1. 1788, *ch.* 67, *ſec.* 106. (*b*) 1790, *ch.* 64. 1785, *ch.* 8. (*c*) *Oath of foreman altered by this act.* (*d*) *From* 57 *ch. of* 1786. (*e*) *Enacted from* 22, *Geo.* 2, *ch.* 1, *ſec.* 1, *and* 1788, *ch.* 67, *ſec.* 108.

Court, coming to and returning from thence, allowing one day for every twenty miles from their places of abode, and all such arrests shall be void.

Rules in making presentments.

IX. NO Grand Jury shall make presentment of their own knowledge, upon information of fewer than two of their own body, nor in the District Courts where the penalty inflicted by Law is less than five dollars, or two hundred pounds of tobacco. *a*

Others may be sworn in the room of grand jurors failing to attend after they are sworn.

X. IN case of the sickness, death, or non-attendance of any Grand Juror or Grand Jurors, after he or they shall be sworn, it shall be lawful for the Court to cause others to be sworn in his or their stead. *b*

Officer to summon jurors at every court.

XI. FOR the trial of all causes in the District Courts, and in the County and other Inferior Courts where a Jury may be necessary, the Sheriff or other Officer attending such Courts respectively, shall every day the Court sits, summon a sufficient number of by-standers, or others qualified as herein after is directed, to attend the Court that day, that out of them may be impannelled sufficient Juries for the trial of causes depending in such Courts; and if any person so summoned, shall fail to attend the Court accordingly, he shall be fined eight dollars, to the use of the Commonwealth. *c*

Fine, if they fail to attend.

Qualifications of jurors.

XII. NO person shall be capable to be of a Petit-Jury, for the trial of Treason, Felony, breach of the Peace, misprision of Treason, breach of a penal Law, or any other pleas of the Commonwealth, or of any estate of freehold, or estate or title in or to lands, tenements, or hereditaments, in any Court of Record in this Commonwealth, or to be a Juror in any cause whatsoever, depending in the District or any other of the Superior Courts of the Commonwealth, unless such person be a freeholder, and possessed of a visible estate, real or personal, of the value of three hundred dollars at the least. No person shall be capable to be of a Jury for the trial of any cause whatsoever, in any County Court or other Inferior Court, unless he be possessed of a visible estate, real or personal, of the value of one hundred and fifty dollars at the least. No person under the age of twenty-one years, shall serve as a Juror. No Sheriff or other Officer shall, at any time, summon or return any Juror, not qualified as this Act directs. *Provided always*, that no exceptions against any Juror, on account of his estate or age, or any other legal disability, shall be allowed after he is sworn. *c*

In the Superior Courts.

In county courts.

Infants not to serve as jurors.

Jurors shall not be challenged after they are sworn.

Juries de medietate linguæ.

XIII. JURIES *de medietate linguæ* may be directed by the Courts respectively. *d*

Jurors how to give evidence.

XIV. JURORS knowing any thing relative to the point in issue shall disclose the same in open Court. *d*

How punished for contempt.

XV. ANY Juror guilty of a contempt to the Court, may be fined by such Court in any sum not exceeding thirty dollars. *d*

When the sheriff may converse with them.

XVI. NO Sheriff shall converse with a Juror, but by order of the Court, after the Jury have retired from the bar. *d*

Penalty on sheriff for failing to summon a grand jury.

XVII. IF any Sheriff shall fail to summon a Grand Jury, and return a panel of their names as herein directed, he shall forfeit and pay twenty dollars, for the use of the Commonwealth. *e*

Allowance to venire-men.

XVIII. EVERY venire-man summoned and attending the District Court for the trial of any person charged with a criminal offence, shall have the same allowance for travelling and attendance, as is provided in the case of witnesses attending the said Courts, to be paid by the Public. If any person so summoned as a venire-man, shall fail to attend accordingly, not having a reasonable excuse, to be made at the time he should have appeared, or at the next District Court, every such person may be fined by the Court, not exceeding six dollars, to the use of the Commonwealth. *f*

Penalty on them for failing to attend.

Penalty on a juror taking any thing for giving his verdict.

XIX. IF any Juror upon any inquest whatsoever, shall take any thing by himself, or another, to give his verdict, and shall be thereof convicted, such Juror shall not thereafter be put on any Jury, and shall pay ten times as much, as he shall have taken; whereof one half shall go to him who will sue for the same, and the other half to the Commonwealth. *g*

Who may be summoned as jurors in James City county.

XX. THE Sheriff of the County of *James City* for the time being, and his Under-Sheriffs and Deputies, and every of them, shall be, and are hereby empowered and authorised, to summon Jurors of the inhabitants of *James City* County, in all and every part of the City of *Williamsburg*, as well in that part

(*a*) 22 *Geo. 2d, ch.* 7, *sec.* 4. 1788, *ch.* 67, *sec.* 107. (*b*) 1788, *ch.* 67, *sec.* 106. (*c*) *Enacted from* 22 *Geo.* 2, *ch.* 7, *sec.* 5, 6. (*d*) 1788, *ch.* 67, *sec.* 44, 45, 46, 48. (*e*) 22, *Geo.* 2, *ch.* 7, *sec.* 1. (*f*) 1788, *ch.* 67, *sec.* 103, 104. (*g*) 1789, *ch.* 26, *sec.* 3.

lying in the County of *York*, as *James City*, to ſerve on Juries on the days appointed for holding Courts in the ſaid County of *James City*. *a*

Repealing clauſe.

XXI. ALL and every Act and Acts, clauſes and parts of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this Act.

XXII. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. LXXIV.

An Act directing the Method of proceeding againſt free Perſons charged with certain Crimes; declaring the Mode of proceeding on Indictments, Informations, and Proſecutions on Penal Statutes; and for preventing vexatious and malicious Proſecutions, and moderating Amercements.

[Paſſed the 13th of November, 1792.]

Free perſons charged with criminal offences, how, and by whom to be committed.

I. BE *it enacted by the General Aſſembly*, That when any perſon, not being a ſlave, ſhall be charged before a Juſtice of the Peace, with any criminal offence, which in the opinion of ſuch Juſtice ought to be examined into by the County or Corporation Court, the ſaid Juſtice ſhall take the recognizance of all material witneſſes to appear before ſuch County or Corporation Court, and immediately by his warrant commit the perſon ſo charged to the County or Corporation Jail, and moreover ſhall iſſue his warrant to the Sheriff of the County or Serjeant of the Corporation, requiring him to ſummon the Juſtices of the County or Corporation, to meet at their Court-houſe on a certain day, not leſs than five, nor more than ten days after the date thereof, to hold a Court for the examination of the fact, which Court ſhall conſider, whether, as the caſe may appear to them, the priſoner may be diſcharged from further proſecution, may be tried in the County or Corporation, or muſt be tried in the Diſtrict Court.* If they ſhall be of opinion, that the fact may be tried in the County or Corporation, the priſoner ſhall be bound over to the next Grand-Jury, to be held for that County or Corporation, then to be tried, or, upon refuſing to give ſufficient bail, ſhall be remanded to the County or Corporation Jail, there to remain until ſuch Court, or until he or ſhe ſhall be bailed. If they ſhall be of opinion that the priſoner ought to be tried in the Diſtrict Court, they ſhall take the depoſitions of witneſſes, and bind ſuch as they ſhall think proper, by recognizance to appear and give evidence againſt ſuch criminal at his or her trial, and having remanded the priſoner to Jail, any two of the Juſtices by warrant under their hands and ſeals, ſhall direct the Sheriff or his Deputy, or Serjeant, to remove the priſoner, and commit him or her to the Diſtrict Jail, there to be ſafely kept until he or ſhe ſhall be diſcharged by due courſe of Law; by virtue of which warrant, the Sheriff or his Deputy, or Serjeant, as ſoon as may be, ſhall remove the priſoner, and deliver him or her with the warrant to the Keeper of the Diſtrict Jail, who ſhall receive and keep him accordingly. And for enabling the Sheriff or his Deputy, or Serjeant, ſafely to convey and deliver ſuch priſoner, the ſaid two Juſtices, by their warrant, ſhall empower him, as well within his County as without, to impreſs ſuch and ſo many men, horſes, and boats, as ſhall be neceſſary for the guard and ſafe conveyance of the priſoner, proceeding therein as the Law may direct in caſes of impreſſing on other occaſions; and all perſons are to pay due obedience to ſuch warrant. *b*

Examining court, how to be ſummoned, and what its powers.

How criminals ſhall be conveyed to the Diſtrict Jails.

When bailable before a juſtice of the peace, or a judge of the General Court.

II. IF ſuch priſoner ſhall in the opinion of the Court be bailable by Law, they ſhall enter that opinion in their proceedings, and alſo the ſums of money in which he and his bail ought to be bound, and he or ſhe ſhall not be removed within twenty days after the examining Court, but ſhall and may be admitted to bail, before any Juſtice of the ſame County or Corporation within that time, or at any time afterwards before any Judge of the General Court. When any priſoner ſhall be thus admitted to bail by any Judge of the General Court, the Judge ſhall tranſmit the recognizance to the Clerk of the Diſtrict Court, and give a warrant for the deliverance of the priſoner; and the warrant being put into the hands of the Officer in whoſe cuſtody the priſoner ſhall be, he ſhall thereupon be delivered, if he be detained for no other cauſe. *c*

(*a*) *From* 1748, *ch.* 6, *ſec.* 18. * *By act of* 1799, *ch.* 58, *an alteration made in manner of holding called Courts.* (*b*) 1788, *ch.* 67, *ſec.* 95. (*c*) 1786 *ch.* 57.

When bailable before two Judges of the general court.

III. ANY two Judges of the General Court when it is not ſitting, may admit to bail a priſoner when they ſhall think him or her entitled thereto, and grant a warrant for his deliverance, notwithſtanding the Juſtices before whom the examination was, ſhall have been of a different opinion. *a*

Juries how formed.

IV. WHEN the Juſtices ſhall have determined that a priſoner ought to be tried for an offence in the Diſtrict Court, the Clerk of the Court where ſuch examination ſhall be had, ſhall iſſue a *venire facias* to be directed to the Sheriff or Serjeant, commanding him to cauſe twelve good and lawful men, freeholders of his County or Corporation, of the neighbourhood of the place where the fact ſhall have been committed, to come before the Judges of the Diſtrict Court, at the time the witneſſes ſhall be bound to appear there, which writ ſhall be executed by the ſaid Sheriff or Serjeant, and the freeholders ſummoned by virtue thereof, or ſuch of them as appear and be not challenged, together with ſo many other good and lawful men of the by-ſtanders, being freeholders within this Commonwealth, as will make the number twelve, or if the whole array be challenged, twelve of ſuch by-ſtanders ſhall be a lawful Jury for the trial of the priſoner. No Juſtice of the Peace, or Member of a Corporation Court, who ſhall have committed any perſon for examination by the Court of his County or Corporation, or ſhall have been a Member of the examining Court, ſhall be ſworn on the Petit-Jury impannelled for the trial of ſuch perſon. *a*

No Juſtice committing a criminal or ſitting on the examining court to be ſworn on the Petit Jury.

Proceſs againſt perſons not in cuſtody, indicted of treaſon or felony.

V. AFTER any perſon ſhall be indicted of Treaſon, or Felony, if he or ſhe be not already in cuſtody, the Sheriff ſhall be commanded to attach his or her body, by writ, or by precept which is called a *capias*, and if he return that the body is not found, another writ or precept of *capias*, ſhall be immediately made returnable forthwith, in which the Sheriff ſhall alſo be commanded to ſeize his or her chattels, and ſafely to keep them; and if he return that the body is not found, and the indictee cometh not, an exigent ſhall be awarded, and the chattels ſhall be ſequeſtered; but if he or ſhe come, and yield himſelf or herſelf, or if he or ſhe be taken before the return of the fourth *capias*, the goods and chattels ſhall be ſaved to him or her, otherwiſe they ſhall go and be veſted as by Law is herein-after directed. *a*

Priſoner to have copy of the indictment and pannel.

VI. IN all trials for ſuch offences, the priſoner ſhall have a copy of the indictment, and of the pannel of the Jurors, who are to try him or her, whenſoever he or ſhe ſhall require it before trial or ſentence. *a*

Jurors how challenged by the proſecutor for the Commonwealth.

VII. WHENSOEVER an Inqueſt be about to be taken in any Court, in which Inqueſt the Commonwealth is a party, if he who appears and ſues in behalf of the Commonwealth, will challenge any of the Jurors, he ſhall aſſign a cauſe certain for his challenge, and the truth of ſuch challenge ſhall be judged of by the Court; and if ſuch challenge be ſufficient, the Juror ſhall be rejected, or if inſufficient, he ſhall be admitted, and in either caſe the Inqueſt ſhall be proceeded in. *b*

How many may be peremptorily challenged by the priſoner.

VIII. NO perſon arraigned for Treaſon, ſhall be admitted to a peremptory challenge above the number of twenty-four, nor ſhall any perſon arraigned for Murder or Felony, be admitted to a peremptory challenge above the number of twenty. *b*

Priſoners to be tried at the firſt term.

IX. WHEN the Grand Jury ſhall have preſented to the Diſtrict Court, a bill of indictment againſt any perſon charged with Treaſon or Felony, the Court ſhall cauſe the offender to be arraigned and tried the ſame Term, if he be in the cuſtody of the Jailor, or if he be bailed and forth-coming agreeable to his recognizance, unleſs they ſee good cauſe to adjourn the trial to the next Term; and ſhall allow him Counſel to aſſiſt him at his trial if he deſire it. *c*

To be allowed counſel.

When they ſhall be bailed, or diſcharged if not tried.

X. WHEN any priſoner committed for Treaſon or Felony, ſhall apply to the Court the firſt day of the Term, by petition or motion, and ſhall deſire to be brought to his trial before the end of the Term, and ſhall not be indicted in that Term, unleſs it appear by affidavit that the witneſſes againſt him cannot be produced in time, the Court ſhall ſet him at liberty, upon his giving bail in ſuch penalty, as they ſhall think reaſonable, to appear before them at a day to be appointed of the ſucceeding Term. Every perſon charged with ſuch crime, who ſhall not be indicted before, or at the ſecond Term after he ſhall have been committed, unleſs the attendance of the witneſſes againſt him appears to have been prevented by himſelf, ſhall be diſcharged from his impriſonment, if he be

(*a*) 1786, *ch.* 57. (*b*) 1789, *ch.* 30, *ſec.* 3, 4. (*c*) 1785, *ch.* 57.

detained for that cauſe only; and if he be not tried at or before the third Term after his examination before the Juſtices, he ſhall be forever diſcharged of the crime. *a*

Their witneſſes, how to be ſummoned and paid for their attendance.

XI. IF a priſoner ſhall deſire any witneſſes to be ſummoned for him or her to appear, either at the examining Court, or on the trial at the Diſtrict Court, the Clerk of the ſaid Court, or of the County or Corporation Court, (as the caſe may be) ſhall iſſue *ſubpœnas* for ſuch witneſſes, who, being ſummoned, and attending, ſhall have the like allowance for travelling and attendance, and be ſubject to the ſame penalty for failing to attend, as is provided for witneſſes in civil caſes. *b*

A ſentence of death not to be executed in leſs than thirty days.

XII. EXECUTION of a ſentence of death ſhall not be done in leſs than thirty days after judgment ſhall have been given againſt the priſoner. *c*

Charges of proſecution, to be defrayed out of the priſoner's eſtate if convicted.

XIII. WHERE the priſoner ſhall be convicted, and hath eſtate ſufficient to pay the charges of proſecution, the whole ſhall be paid out of ſuch eſtate, and the public only made chargeable where there is no eſtate, or not ſufficient to be found; and the Auditor is hereby directed to tranſmit to the Sheriff of the County where the eſtate of the ſaid priſoner ſhall be, an account of the ſaid expenſes, and the Sheriff ſhall diſtrain and be accountable for the ſame as for public taxes. *d*

Expenſes attending criminal proſecutions in the County courts, how to be liquidated and paid.

XIV. TO the end that a certain and adequate mode may be fixed by Law for the regular payment of the expenſes attending the examination and trial of criminals in the County and other Inferior Courts, in all caſes where ſuch expenſes ought to be paid by the public: *Be it enacted*, that the ſeveral County and Corporation Courts within this Commonwealth, having juriſdiction in ſuch examinations and trials, ſhall annually, in the month of *September* or *October*, cauſe to be certified to the Auditor of Public Accounts, all claims for expenſes accruing after the firſt day of *January*, one thouſand ſeven hundred and eighty-eight, from the examination and trial of criminals, for guards and maintenance of criminals in their reſpective Counties and Corporations, for conveying them to the Diſtrict Jails for further trial, and for impriſonments for miſdemeanor or breach of the Peace, and all other charges properly chargeable to the public, together with the vouchers on which ſuch claims have been allowed; and the Auditor is hereby authoriſed and required to liquidate and adjuſt the ſaid claims, and to grant warrants on the Treaſury to the reſpective claimants for the amount of their claims. *e*

Attendance of veniremen and witneſſes in the Diſtrict Courts, to be certified to the Auditor.

XV. THE Clerks of the Diſtrict Courts ſhall enter in books to be kept for that purpoſe, the names of Jurors attending for the trial of priſoners, and the names of witneſſes appearing on behalf of the Commonwealth or the priſoner, with accounts of the days they ſhall have attended, the ferries they ſhall have croſſed, and the diſtances they ſhall have travelled on that occaſion, and certify ſuch entries to the Auditor of Public Accounts. *f*

Where offender to be examined and tried, when one feloniouſly ſtricken or poiſoned in one County dies in another.

XVI. WHERE any perſon ſhall be feloniouſly ſtricken or poiſoned in one County or Corporation, and ſhall die of the ſame ſtroke or poiſoning in another County or Corporation, the offender ſhall be examined according to Law, by the Court of the County or Corporation where ſuch ſtroke was given, or poiſon adminiſtered, and, and he ſhall be tried in the Court of the Diſtrict in which ſuch County or Corporation lies. *g*

Where acceſſaries ſhall be examined and tried.

XVII. IN like manner an acceſſary to a Murder or Felony committed, ſhall be examined by the Court of that County or Corporation, and tried by the Court of that Diſtrict in which he became acceſſary; and ſhall anſwer upon his arraignment, and receive ſuch judgment, order, execution, pains, and penalties, as are uſed in other caſes of Murder or Felony. *g*

Priſoner ſtanding mute, or peremptorily challenging more jurors than he legally may, or outlawed, to be deemed convicted.

XVIII. WHENSOEVER in Treaſon or Felony any perſon ſhall ſtand mute on his arraignment, or perſiſte, after being admoniſhed by the Court in not anſwering to the indictment, or in peremptorily challenging above the number of Jurors which by Law he may be allowed to challenge peremptorily, or ſhall be out-lawed, he ſhall be conſidered as convicted, and the ſame judgment, execution, and diſabilities, ſhall take place and be awarded as if he had been convicted by verdict, or confeſſion of the crime. *g*

(a) 1786, *ch.* 57. *(b)* 1788, *ch.* 67, *ſec.* 101. *(c)* 1786, *ch.* 57. *(d)* 1788, *ch.* 67, *ſec.* 112. *(e)* 1787, *ch.* 44, *ſec.* 1. *(f)* *From* 1786, *ch.* 57. *(g)* 1789, *ch.* 30, *ſec.* 6, 7, 10.

How criminals are to be conveyed to the Counties where the offences were committed.

XIX. IF Treaſon or Felony be committed in a County or Corporation, different from that in which the Culprit ſhall be arreſted, any Juſtice of that County or Corporation, in which he or ſhe is arreſted, may by his warrant cauſe the offender to be put into the cuſtody of the Sheriff or Serjeant, to be by him conveyed to the County or Corporation where the offence was committed (and every Sheriff or Serjeant, while he ſhall officiate in execution of this Act, may impreſs ſo many men, horſes, and boats, as may be neceſſary for the ſafeguard and conveyance of the offender into ſuch other County or Corporation) and there brought before ſome Juſtice thereof, who ſhall proceed in like manner, as if the offender had been brought before him in the firſt inſtance; and the Sheriff or Serjeant for removing a criminal from one County or Corporation to another, ſhall be allowed the ſame fee *per* mile for ſuch ſervice as is allowed to Sheriffs for removing criminals from the County to the Diſtrict Jail, to be paid in like manner as other expenſes for criminal proſecutions. *a*

Copy of depoſitions and of the warrant of commitment to be ſent to the attorney for the Commonwealth in the Diſtrict.

XX. WHEN any perſon ſhall be removed to be tried for Treaſon or Felony, in the Diſtrict Court, the Clerk of the Court for the County or Corporation from whence the priſoner is removed, ſhall immediately after the Court holden for his or her examination, tranſmit to the Attorney for the Commonwealth in the Diſtrict Court, a copy of the warrant for his or her commitment, and of the depoſitions taken on the examination. *b*

Additions of defendants eſtate or degree, &c. in indictments.

XXI. IN indictments in which the exigent ſhall be awarded in the names of the Defendants in ſuch indictments, additions ſhall be made of their eſtate or degree, or myſtery, and of the Counties of which they were or be, or in which they be or were converſant; and if on the proceſs upon the ſaid indictments in which the ſaid additions be omitted, any out-lawries be pronounced, they ſhall be void, fruſtrate, and holden for none, and before the out-lawries be pronounced, the ſaid indictments ſhall be abated by the exception of the party wherein the ſaid additions be omitted. *c*

Words "force & arms" in indictments, not eſſentially neceſſary.

XXII. IN any inquiſition or indictment, the words "force and arms," or any particular words deſcriptive of any particular kind of force and arms, ſhall not of neceſſity be put or compriſed. *c*

No indictment to be quaſhed or judgment thereon reverſed for omiſſion of the name of any pariſh, town, &c.

XXIII. NO indictment for High Treaſon, miſpriſion of Treaſon, Murder, or other Felony, or offence whatſoever, ſhall be quaſhed for the omiſſion of the name of any Pariſh, Town, Ville or Hamlet, within any County of this Commonwealth, nor ſhall ſuch omiſſion after conviction on ſuch indictment, be any cauſe to ſtay or arreſt judgment, nor ſhall any judgment on ſuch indictment be liable to be reverſed on a writ of error by reaſon of ſuch omiſſion. *d*

Rules reſpecting the filing of informations for treſpaſſes or miſdemeanors.

XXIV. NO information for a treſpaſs or miſdemeanor, ſhall be filed in any Court but by expreſs order of the Court, entered on Record, nor unleſs the party ſuppoſed to be culpable, ſhall have failed to appear and ſhew good cauſe to the contrary, having been required to do ſo by a ſummons, appointing a convenient time for that purpoſe, ſerved upon him, or left at his uſual place of abode; and the name and ſur-name of the Proſecutor,† and the Town or County in which he ſhall reſide, with his title or profeſſion, ſhall be written at the foot of the information, before it be filed, and of every bill of indictment for any treſpaſs or miſdemeanor before it be preſented to the Grand-Jury. *e*

When the defendant ſhall recover his coſts thereon.

XXV. IF the Grand-Jury to whom ſuch a bill of indictment laſt mentioned, is preferred, ſhall not find the bill, or if the Defendant ſhall appear to ſhew cauſe againſt the filing ſuch information, or to anſwer ſuch information or indictment, and the Proſecutor ſhall not proceed further, or if the Defendant ſhall be found not guilty by the Petit-Jury, or a judgment ſhall be given for him, he ſhall recover his coſts againſt the Proſecutor, with an Attorney's fee, if one was employed, and the allowances to witneſſes to be taxed in the bill of coſts, and may have execution for them, as the manner is in civil caſes. *f*

Fines to be aſſeſſed by Juries.

XXVI. IN every ſuch information or indictment, the fine or amercement, which ought to be according to the degree of the fault and the eſtate of the Defendant, ſhall be aſſeſſed by twelve honeſt and lawful men, either thoſe by whom the offender ſhall have been convicted, in caſe of a verdict, or thoſe who ſhall be impannelled for that ſpecial purpoſe, where judgment ſhall be given

(*a*) *From* 1786, *ch.* 57. (*b*) 1788, *ch.* 67, *ſec.* 102. (*c*) 1789, *ch.* 30, *ſec.* 1, 5. (*d*) 1786, *ch.* 16, *ſec.* 3. † *By act of Dec. ſeſs.* 1801, *pa.* 15, *ch.* 18, *no proſecutor to be required in ſuch caſes.* (*e*) *Ib. ch.* 64. (*f*) 25, *Geo.* 2. *ch.* 5.

againſt him upon the argument of a demurrer, or by his confeſſion or default. *a*

No fines to be impoſed by ſheriffs, &c. for default of common ſummons.

XXVII. NO Eſcheator, Sheriff, Coroner, or other Inquiſitor, ſhall hereafter have power of amercement for default of common ſummons; ſave only the Judges of the General and Diſtrict Courts, or the reſpective County or Corporation Courts. *a*

Proceſs on preſentments for offences not capital.

XXVIII. UPON preſentment made by the Grand-Jury of an offence not capital, the Court ſhall order the Clerk to iſſue a ſummons or other proper proceſs againſt the perſon or perſons ſo preſented, to appear and anſwer ſuch preſentment at the next Court, and thereupon hear and determine the ſame according to Law. *b*

Penalty on private perſons ſuffering criminals to eſcape.

XXIX. IF any private perſon having any priſoner in his keeping, arreſted for ſuſpicion of Felony, Treaſon, or Murder, and the perſon that is ſo arreſted, eſcape by negligent keeping, before that he be brought to the Jail, then the perſon from whom ſueh priſoner ſo eſcaped, ſhall be liable to a fine on being found guilty on an indictment in the Court of that Diſtrict in which ſuch eſcape was made. *c*

None to ſeize the goods of criminals until they are forfeited.

XXX. NO Sheriff, Under-Sheriff, nor Eſcheator, nor any other perſon, ſhall take or ſeize the goods of any perſon accuſed or indicted of, or for, Treaſon, Murder, or other Felony, except only in ſuch caſes where he ſhall be commanded by the precept of *capias* herein before directed, to ſeize the chattels of a perſon not in cuſtody, againſt whom an indictment for any ſuch offence ſhall have been previouſly found, upon pain to forfeit double the value of the goods ſo taken, to him that is ſo hurt in that behalf, by action of debt, to be purſued in any Court of Record. *c*

Eſtates of perſons convicted, attainted, or outlawed of treaſon, felony, &c. to deſcend & paſs as if they had died inteſtate.

XXXI. WHENSOEVER any perſon ſhall happen to be attainted, convicted, or out-lawed, of any Treaſon, Miſpriſion of Treaſon, Murder, or Felony, whatſoever, there ſhall in no caſe be a forfeiture to the Commonwealth, of dower, or of lands, ſlaves, or perſonal eſtate, but the ſame ſhall deſcend and paſs in like manner as is by Law directed in caſe of perſons dying inteſtate; nor ſhall any attainder work a corruption of blood; any Law or uſage to the contrary in any-wiſe notwithſtanding. *d*

No attainder to work a corruption of blood.

Reſervation of the rights of all perſons other than the offenders.

XXXII. SAVING to all and every other perſon and perſons, bodies politic and corporate, their heirs and ſucceſſors, and to every of them (other than to ſuch offender as ſhall be attainted, convicted, or out-lawed) all ſuch right, title, intereſt, entry, leaſes, poſſeſſion, condition, profit, commodity, and hereditaments, as they or any of them had, or ſhould, or of right ought to have, before or at the time of the ſaid attainder, conviction, or outlawry. *d*

Approvers in no caſe to be admitted.

XXXIII. APPROVERS ſhall never be admitted in any caſe whatſoever. *d*

Actions, &c. on penal laws, within what time to be commenced.

XXXIV. ALL actions, ſuits, bills, indictments, or informations, which ſhall be had, brought, ſued, or exhibited upon any penal Act of Aſſembly, not affecting life or limb, made or to be made, ſhall be had, brought, ſued, or exhibited within one year next after the offence committed againſt ſuch penal Act, and not after. *d*

When ſpecial bail ſhall be requirable in ſuch actions.

XXXV. NO ſpecial bail ſhall be requirable in any ſuit brought upon a penal Law, unleſs by ſuch Law, bail ſhall be expreſsly directed. *e*

How ſuits may be brought for fines againſt Juſtices.

XXXVI. IN all caſes where a fine is laid upon the Juſtices of any County, one action may be brought againſt them all jointly. *f*

Penalties not exceeding 20 dollars or 800 lbs. tobacco, how recoverable.

XXXVII. WHERE the penalty incurred by the breach of any penal Law ſhall not exceed twenty dollars, or eight hundred pounds of tobacco, the ſame may be ſued for and recovered in the manner directed by Law for debts of like amount. *g*

Proſecutors for offences not capital, may be compelled to give ſecurity for coſts.

XXXVIII. *AND be it further enacted*, That in all indictments for aſſaults and batteries, and other offences not capital, now depending or hereafter to be proſecuted, it ſhall be lawful for the Court before whom the ſame ſhall be depending, upon good cauſe to them ſhewn, to compel the Proſecutor to find ſecurity for payment of the coſts, and if ſuch Proſecutor ſhall fail to give ſecurity accordingly, the indictment ſhall be diſmiſſed with coſts.

Repealing clauſe.

XXXIX. ALL and every Act and Acts, clauſe and clauſes of Acts, containing any thing within the purview of this Act (except as herein after pro-

(*a*) 1786, *ch.* 64. (*b*) 1788, *ch.* 67, *ſec.* 109. (*c*) 1789, *ch.* 30, *ſec.* 15, 12. 1786, *ch.* 57. (*d*) 1789, *ch.* 30, *ſec.* 18, 14, 8, 9. (*e*) 22, *Geo.* 2, *ch.* 4, *ſec.* 17. (*f*) 27, *Geo.* 2, *ch.* 1, *ſec.* 24. (*g*) 1786, *ch.* 62. *Amended.*

vided) shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done, or claim which may have accrued, before the commencement of this Act. Proviso.

XL. THIS Act shall commence in force, from and after the passing thereof. Commencement of this act.

CHAP. LXXV.

An Act declaring at what Time Restitution shall be made of Goods stolen.

[Passed the 22d of October, 1792.]

BE *it declared and enacted by the General Assembly*, That if any Felon or Felons do rob or take away any money, goods, or chattels, from any person within this Commonwealth, whether from their person or otherwise, and thereof the said Felon or Felons be afterwards convicted or attainted, that then the party so robbed, shall be restored to his said money, goods, or chattels; and the Court before whom such Felon shall be convicted or attainted, shall have power to award, from time to time, writs of restitution accordingly. *a* Courts before whom felons are convicted, may award restitution of the goods stolen by them.

II. ALL and every Act and Acts, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. Repealing clause.

III. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. LXXVI.

An Act for Limitation of Actions; for preventing frivolous and vexatious Suits; concerning Jeofails, and certain Proceedings in Civil Cases.†

[Passed the 19th of December, 1792.]

BE *it enacted by the General Assembly*, That all writs of *formedon* in descender, remainder, or reverter of any lands, tenements, or hereditaments whatsoever, hereafter to be brought upon any title or cause heretofore accrued or which may hereafter fall or accrue, shall be sued out within twenty years next after such title or cause of action accrued, and not afterwards; and that no person or persons who now hath or have, or hereafter may have any right or title of entry into any lands, tenements, or hereditaments, shall make any entry but within twenty years next after such right or title accrued, and such person shall be barred from any entry afterwards. *b* Limitations of real actions.

II. *PROVIDED nevertheless*, That if any person or persons entitled to such writ or writs, or to such right or title of entry as aforesaid, shall be, or were under the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not within this Commonwealth at the time of such right or title accrued, or coming to them, every such person, and his or her heirs, shall and may, notwithstanding the said twenty years are, or shall be expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled, and not afterwards. *b* Exception.

III. IN all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seizin of his ancestor or predecessor, within fifty years, or any other possessory action upon the possession or seizin of his or her ancestor or predecessor, within forty years, next before the teste of the writ; but no person shall maintain a real action upon his own possession or seizin, but within thirty years next before the teste of the writ. *b* Rules in writs of right.

IV. ALL actions of trespass *quare clausum fregit*, all actions of trespass, detinue, action sur trover, and replevin for taking away of goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors, or servants; all actions of debt, grounded upon any lending, or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding, and imprisonment, or any of them, which shall be sued or brought, Limitation of personal actions, except accounts between merchants, &c. Case, account trespass quare, clausum fregit, debt, detinue, and replevin, to be brought within five years after.

(a) *Stat.* 21, *H.* 8, *ch.* 11. † *See acts of* 1797, *pa.* 15, *ch.* 93. (b) 23 *Geo.* 2, *ch.* 1, *sec.* 18, 19, 22.

the cauſe of action accrued.

shall be commenced and ſued within the time and limitation hereafter expreſſed, and not after, that is to ſay: The ſaid actions upon the caſe, other than for ſlander, and the ſaid actions for account, and the ſaid actions for treſpaſs, debt, detinue, and replevin for goods and chattels, and the ſaid action of trepaſs *quare clauſum fregit*, within five years next after the cauſe of ſuch action, or ſuit, and not after; and the ſaid actions of treſpaſs, of aſſault, battery, wounding, impriſonment, or any of them, within three years next after the cauſe of ſuch actions or ſuits, and not after; and the ſaid action upon the caſe for words, within one year next after the words ſpoken, and not after. *a*

Treſpaſs, aſſault, battery, wounding and impriſonment, in three years.

Slander within one year.

Within what time the plaintiff muſt proceed on a judgment on which execution hath not iſſued; when it hath iſſued, but hath not been returned.

V. JUDGMENTS in any Court of Record within this Commonwealth, where execution hath not iſſued, may be revived by *ſcire facias*, or an action of debt brought thereon, within ten years next after the date of ſuch judgment, and not after; or where execution hath iſſued and no return is made thereon, the party in whoſe favor the ſame was iſſued ſhall and may obtain other executions, or move againſt any Sheriff or other Officer, or his or their ſecurity, or ſecurities, for not returning the ſame for the term of ten years from the date of ſuch judgment, and not after.

Proviſo in favor of Infants, femes covert, perſons non compos, impriſoned, or out of the State.

VI. *PROVIDED*, That if any perſon or perſons entitled to ſuch judgment, where execution hath not iſſued, or where execution hath iſſued, and no return made (in either caſe) ſhall be, or were under the age of twenty one years, *feme covert*, *non compos mentis*, impriſoned, or not within this Commonwealth at the time of ſuch judgment being awarded, whether execution hath iſſued thereon or not, every ſuch perſon, his or her heirs, executors, or adminiſtrators, ſhall and may, notwithſtanding the ſaid ten years are or ſhall be expired, have the benefit of ſaid judgment where no execution hath iſſued by reviving the ſame by *ſcire facias*, or by action of debt, and where execution hath iſſued and no return made, every ſuch perſon or perſons, his or her heirs, executors, or adminiſtrators, may have the benefit of other executions, or may move againſt any Sheriff or other Officer, or his or their ſecurity, or ſecurities, for the ſame within five years after ſuch diſabilities removed, and not after.

On ſtore accounts within one year.

VII. ALL actions or ſuits founded upon any account for goods, wares, and merchandiſe ſold and delivered, or for any articles charged in any ſtore account, ſhall be commenced and ſued within one year next after the cauſe of ſuch action or ſuit, or the delivery of ſuch goods, wares, and merchandiſe, and not after; except that in caſe of the death of the creditors or debtors, before the expiration of the ſaid term of one year, the further time of one year from the death of ſuch creditor or debtor, ſhall be allowed for the commencement of any ſuch action or ſuit. *b*

In ſtore accounts the dates of the delivery of the articles to be ſpecified.

Penalty for poſt-dating ſuch accounts.

VIII. AND to prevent impoſition or deception herein, the reſpective time or date of the delivery of the ſeveral articles charged in any ſuch account, or any receipt taken for the delivery of them, ſhall be particularly ſpecified. And if any merchant or trader ſhall wilfully poſt-date, any article or articles in ſuch account, or the receipt taken for the delivery of them, he ſhall forfeit and pay ten-fold the amount of the article or articles, or of the receipt taken for the delivery of them, ſo poſt-dated, to be recovered with coſts in any Court of Record, by petition, where the penalty incurred ſhall be under ſixteen dollars and ſixty-ſix cents, or amounts to that ſum only, and by action of debt or information, where the penalty ſhall be more than ſixteen dollars and ſixty-ſix cents, to the Informer, where the Informer proſecutes, or to the Commonwealth, where the proſecution ſhall be firſt inſtituted on the Public behalf. *b*

Limitation to commence from the reſpective dates or delivery of the articles.

IX. AND to prevent any doubt in the conſtruction hereof, it is hereby declared, that the before mentioned limitation of one year, ſhall take place and be computed, from the reſpective dates or times of delivery of the ſeveral articles entered or charged in any ſuch account; and that all ſuch articles as ſhall have been of more than one year's ſtanding when the action or ſuit was commenced, ſhall be diſallowed and rejected, and verdict ſhall be given, or judgment rendered for no more than the amount of ſuch articles as appear to have been actually charged or delivered within one year next before the commencement of the ſuit as aforeſaid. *b*

Verdict or judgment to be given only for what was delivered within the year.

Proviſo within what time plaintiff may recommence his action where the judgment is arreſted or reverſed.

X. *PROVIDED nevertheleſs*, That if in any of the ſaid actions or ſuits, judgment be given for the Plaintiff, and the ſame be afterwards reverſed by error, or a verdict paſs for the Plaintiff, and upon matter alledged in arreſt of judgment, the judgment be given againſt the Plaintiff, that he take nothing by

(*a*) 4 *Anne*, *ch.* 8, *ſec.* 1. (*b*) *Oct.* 1779, *ch.* 3, *ſec.* 2.

his plaint, writ or bill, in all such cases the party Plaintiff, his heirs, executors, or administrators (as the case shall require) may commence a new action or suit, from time to time within one year next after such judgment reversed, or such judgment given against the Plaintiff, and not after. *a*

In the computation of time under the act of limitations, certain periods not to be accounted part thereof.

XI. *PROVIDED always*, That in all questions which may arise in any Court of Record upon any Act for limitation of actions, making entries into lands, or limitation of evidence, in the computation of time, the several periods between the twelfth day of *April*, one thousand seven hundred and seventy-four, and the twelfth day of *April*, one thousand seven hundred and seventy-eight, and between the first day of *January*, one thousand seven hundred and eighty-one, and the fifth day of *January*, one thousand seven hundred and eighty-two, and between the fifth day of *May*, one thousand seven hundred and eighty-three, and the twentieth day of *October*, in the same year, shall not be accounted any part thereof, so as to bar such action, entry, or evidence. *b*

Infants, femes covert, persons non compos, imprisoned, beyond seas or out of the country, may bring suit within the time limited after such impediments removed;

XII. *PROVIDED also*, That if any person or persons that is or shall be entitled to any such action of trespass, detinue, action sur trover, replevin, actions of account, actions of debt, actions of trespass, for assault, menace, battery, wounding, or imprisonment, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond the seas, or out of the Country, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are before limited after their coming to, or being of full age, discovert, of sane memory, at large, and returned from beyond the seas, or from without this Country, as by other persons, having no such impediment, should be done. *c*

Except persons out of the country bringing suits for goods sold by their factors.

XIII. *PROVIDED always*, That all suits hereafter brought in the name or names of any person or persons residing beyond the seas, or out of this Country, for recovery of any debt due for goods actually sold and delivered here, by his or their factor or factors, shall be commenced and prosecuted within the time appointed and limited by this Act, for bringing the like suits, and not after, notwithstanding the saving herein before contained, to persons beyond the seas at the time their causes of action accrued. *Provided nevertheless*, that if any factor shall happen to die before the expiration of the time in which suit should have been brought, such principal shall be allowed two years from the death of such factor, to commence and prosecute his, her, or their action, for any debt due to him, her, or them, on account of any contract or dealing with such factor. *d*

Proviso.

In what cases the defendants shall not have the benefit of this act.

XIV. *PROVIDED also*, That if any person or persons, defendant or defendants to any of the aforesaid actions, shall abscond or conceal themselves, or by removal out of the Country, or the County where he or they do or shall reside, when such cause of action accrued, or by any other indirect ways or means, defeat or obstruct any person or persons who have title thereto, from bringing or maintaining all, or any of the aforesaid actions within the respective times limited by this Act, that then and in such case, such defendant or defendants are not to be admitted to plead this Act in bar to any of the aforesaid actions; any thing in this Act in any wise to the contrary notwithstanding. *e*

XV. *PROVIDED also*, That this Act shall not extend to any action which shall be commenced against any Master or Commander of a Ship or Vessel, who shall discharge or cause to be put on shore any sick or disabled sailor belonging to his Ship or Vessel, or any servant, without taking due care for their maintenance and cure, or carrying any debtor, servant, or slave out of this Commonwealth contrary to Law. *f*

When the plaintiff shall not recover costs.

XVI. AND for the relief of the good people of this Commonwealth against causeless and vexatious suits, and for the better enabling them to recover their just rights; *Be it enacted*, that in all actions of assault and battery, and slander, commenced and prosecuted in any District Court, if the Jury find under the sum of sixteen dollars and sixty-six cents; and in the like actions commenced and prosecuted in any County Court, if the Jury find under six dollars and sixty-six cents, the plaintiff in either case, shall not recover any costs. *g*

Where no more costs than damages.

XVII. AND in all actions of trespass, and all other personal actions, where the Court before whom the trial shall be, shall not be satisfied, and enter upon the

(*a*) 4 *Anne*, *ch.* 8, *sec.* 2. (*b*) *Oct.* 1777, *ch.* 23, *sec.* 2. *May* 1781 *ch.* 9, *sec.* 2. *Nov.* 1781, *ch.* 12. *May* 1783, *ch.* 41. *Oct.* 1783, *ch.* 26. (*c*) 4 *Anne*, *ch.* 8, *sec.* 5. (*d*) 28 *Geo.* 2, *ch.* 2, *sec.* 7, 8, 9. (*e*) 4 *Anne*, *ch.* 8, *sec.* 6. (*f*) 1749, *ch.* 12, *sec.* 7. (*g*) 22 *Geo.* 2, *ch.* 5, *sec.* 1, 2.

record, that the freehold, title, or intereſt of land mentioned in the Plaintiff's declaration, was or might have been in queſtion, or that the treſpaſs was wilful or malicious, if the Jury find under ſix dollars and ſixty-ſix cents, the Plaintiff ſhall not recover more coſts than damages; and if more coſts are awarded, the judgment ſhall be void, and ſhall be amended upon a motion at any time, by the Court who awarded the ſame, and the party injured ſhall be redreſſed, as to ſuch coſts ſo wrongfully awarded, in caſe the ſame be levied upon him. And where ſeveral perſons ſhall be made Defendants in any action of treſpaſs, aſſault, falſe impriſonment, or ejectment, and upon the trial thereof, any one or more of them ſhall be acquitted by verdict, every Defendant ſo acquitted ſhall have and recover his coſts of ſuit in like manner as if a verdict had been given againſt the Plaintiff or Plaintiffs, and acquitted all the Defendants, unleſs the Court before whom ſuch cauſe ſhall be tried, ſhall be ſatisfied that there was reaſonable cauſe for making ſuch perſon or perſons Defendant or Defendants to ſuch action, and ſhall order it otherwiſe; and in all caſes where judgment ſhall be given for the Defendant, he ſhall recover his coſts againſt the Plaintiff, and have execution for the ſame. *a*

Remedy where more coſts ſhall be awarded. Where the defendant ſhall have his coſts.

Exception as to executors or adminiſtrators.

XVIII. *PROVIDED always*, That nothing herein contained, ſhall be conſtrued to extend to Executors or Adminiſtrators, in ſuch caſes where by the Law they are not liable to the payment of coſts of ſuit. *a*

In treſpaſs quare clauſum fregit, if the defendant pleads a diſclaimer and involuntary treſpaſs with tender of amends if it be found for the defendant, or the plaintiff be non-ſuited, he ſhall be barred.

XIX. AND in all actions of treſpaſs *quare clauſum fregit*, hereafter to be brought, wherein the Defendant or Defendants ſhall diſclaim, in his or their plea, to make any title or claim to the land in which the treſpaſs is by the declaration ſuppoſed to be done, and the treſpaſs be by negligence or involuntary, the Defendant or Defendants ſhall be admitted to plead a diſclaimer, and that the treſpaſs was by negligence or involuntary, and a tender or offer of ſufficient amends for ſuch treſpaſs, before the action brought, whereupon, or upon ſome of them, the Plaintiff or Plaintiffs ſhall be enforced to join iſſue; and if the ſaid iſſue be found for the Defendant or Defendants, or the Plaintiff or Plaintiffs ſhall be non-ſuited, the Plaintiff or Plaintiffs ſhall be clearly barred from the ſaid action or actions, and all other ſuits concerning the ſame. *b*

Where a ſuit ſhall not abate by the death of either party.

XX. IN all actions where the Plaintiff ſhall die after an interlocutory judgment, and before final judgment obtained therein, ſuch action ſhall not abate, if the ſame might be originally proſecuted or maintained by the Executors or Adminiſtrators of ſuch Plaintiff; and if the Defendant die after ſuch interlocutory judgment, and before final judgment, ſuch action ſhall not abate, if the ſame were originally maintainable againſt the Executors or Adminiſtrators of ſuch Defendant, but the Plaintiff (or, if he be dead, after ſuch interlocutory judgment, his Executors or Adminiſtrators) ſhall and may have a *ſcire facias* againſt the Defendant, if living, after ſuch interlocutory judgment, (or, if he died after, againſt his Executors or Adminiſtrators) to ſhew cauſe why damages in ſuch action ſhould not be aſſeſſed, and recovered by the Plaintiff or Plaintiffs; and if ſuch Defendant, or his Executors or Adminiſtrators, ſhall appear at the return of ſuch writ, and not ſhew or alledge any matters ſufficient to arreſt the final judgment, or being returned warned, or upon two writs of *ſcire facias*, it be returned, that the Defendant, or his Executors or Adminiſtrators, had nothing whereby to be ſummoned, or could not be found in the County, ſhall make default, a writ of enquiry of damages ſhall be thereupon awarded, which being executed, judgment final ſhall be given for the ſaid Plaintiff, his Executors or Adminiſtrators proſecuting ſuch writ or writs of *ſcire facias*, againſt ſuch Defendant, his Executors or Adminiſtrators. And if there be two or more Plaintiffs or Defendants, and one or more of them ſhould die, if the cauſe of action ſhould ſurvive to the ſurviving Plaintiff or Plaintiffs, or againſt the ſurviving Defendant or Defendants, the writ or action ſhall proceed, at the ſuit of the ſurviving Plaintiff or Plaintiffs, againſt the ſurviving Defendant or Defendants. And in all actions, real, perſonal and mixed, if either party ſhould die between verdict and judgment, ſuch death ſhall not be pleaded in abatement, but judgment ſhall be entered as if both parties were living. *c*

Rules in actions for non-performance of covenants, &c.

XXI. IN all actions upon any bond, or on any penal ſum, for non-performance of covenants or agreements, in any indenture, deed or writing contained, the Plaintiff or Plaintiffs may aſſign as many breaches as he or they ſhall think fit; and the Jury, upon trial of ſuch action or actions, ſhall and may aſſeſs damages for ſuch of the breaches as the Plaintiff ſhall prove to have been broken,

(*a*) 22, *Geo.* 2, *ch.* 5, *ſec.* 3, 4. (*b*) 4 *Anne*, *ch.* 8, *ſec.* 3. (*c*) 22 *Geo.* 2, *ch.* 5, *ſec.* 5.

and on such verdict the like judgment shall be entered as heretofore has been usually done in such actions. And where judgment on a demurrer, or by confession, or *nihil dicit*, shall be given for the Plaintiff, he may assign as many breaches of the covenants or agreements, as he shall think fit; upon which a jury shall be summoned, to enquire of the truth of every one of those breaches, and to assess the damages the Plaintiff shall have sustained thereby, and execution shall issue for so much; and judgment shall remain as a security to the Plaintiff, his Executors and Administrators, for any other breaches which may afterwards happen, and he or they may have a *scire facias* against the Defendant, and assign any other breach, and thereupon damages shall be assessed, and execution issued as aforesaid. And in all actions which shall be brought upon any bond or bonds, for the payment of money, wherein the Plaintiff shall recover, judgment shall be entered for the penalty of such bond, to be discharged by payment of the principal and the interest due thereon, and the other costs of suit, and execution shall issue accordingly; or if before judgment the Defendant shall bring into Court the principal and interest due upon such bond, he shall be discharged, and in that case judgment shall be entered for the costs only. And in any action of debt on single bill, or in debt, or *scire facias* upon a judgment, or in debt upon bond, if before action brought, the Defendant hath paid the principal and interest due by the defeasance or condition, he may plead payment in bar. *a*

On bonds for payment of money.

In other actions of debt.

XXII. ALL powers of attorney for confessing or suffering judgment to pass by default or otherwise, and all general releases of error, made or to be made by any person or persons whatsoever within this Commonwealth, before action brought, shall be, and are hereby declared to be absolutely null and void. *a*

Powers of attorney for confessing judgments & releasing errors before suit brought, void.

XXIII. EVERY action at common Law, or suit in equity, commenced in the name of a person not residing in *Virginia*, unless he be employed abroad in the service of the Commonwealth, or of the *United States* of *America*, shall be dismissed, if security be not given with the Clerk of the Court from whence the process shall issue, or wherein it shall be depending, within sixty days after notice, shall at any time during such non-residence, have been given to the demandant, or Plaintiff, or his Attorney, by some person interested, that such security is required for payment of the costs and damages which may be awarded to the Tenant or Defendant, and also of the fees which will become due to the Officers of the Court. *b* †

Suits brought, by persons residing out of the state to be dismissed, if security be not given for the costs.

XXIV. ACTIONS of account shall and may be brought and maintained against the Executors or Administrators of every guardian, bailiff and receiver, and also by one Joint Tenant or Tenant in Common, his Executors or Administrators, against the other as bailiff, for receiving more than comes to his just share or proportion, and against the Executors or Administrators of such Joint Tenant, or Tenant in Common. *c*

Actions of account may be brought against executors or administrators of guardians, bailiffs, and receivers, and by one joint tenant or tenant in common against the other.

XXV. PROCESS in all real actions, other than writs of right, shall be according to the course of the common Law, except that the returns shall be according to the Laws of this Commonwealth, but all essoins, views, and vouchers be, and are hereby taken away; and after one imparlance, unless the Tenant shall plead non-tenure, joint tenancy, or several tenancy, in abatement, and then, after such plea shall be over-ruled, he shall put himself upon the grand assize, and the mise shall be joined upon the mere right, and be tried at the next Court by twelve Jurors, to be summoned, tried, and sworn as in all other actions. And to remove all delays and groundless pretences in saving the default of the Tenant, no excuse shall be admitted but non-summons; and such excuse being allowed, he may imparle, and at the next Court, shall either plead in abatement, or put himself upon the grand assize, as aforesaid. *d*

Process in real actions.

XXVI. NO judgment after a verdict of twelve men, shall be stayed or reversed for any defect or default in the writ original, or judicial, or for a variance in the writ from the declaration or other proceedings; or for any mispleading, insufficient pleading, discontinuance, misjoining of the issue, or lack of a warrant of Attorney, or for the appearance of either party, being under the age of twenty-one years, by Attorney, if the verdict be for him and not to his prejudice; or for not alledging any deed, letters testamentary, or commission of administration, to be brought into Court; or for omission of the words "with force and arms," or "against the peace," or for mistake of the christian name, or surname of either party, sum of money, quantity of mer-

Judgments not to be reversed for certain defects in the process or pleadings.

(*a*) 22, *Geo.* 2, *ch.* 5, *sec.* 67. (*b*) 1786, *ch.* 64. † *Acts of* 1796, *ch.* 10. *sec.* 3, *authorises the clerk to demand of persons residing out of the state, security for his fees before services performed.* (*c*) 22, *Geo.* 2, *ch.* 3, *sec.* 37. (*d*) *Ib. ch.* 1, *sec.* 21.

chandize, day, month, or year, in the declaration or pleading, (the name, ſum, quantity or time being right in any part of the Record or proceeding) or for omiſſion of the averment, "this he is ready to verify," or, "this he is ready to verify by the Record," or for not alledging "as appeareth by the Record," or for omitting the averment of any matter, without proving which, the Jury ought not to have given ſuch verdict, or for not alledging that the ſuit or action is within the juriſdiction of the Court, or for any informality in entering up the judgment by the Clerk; neither ſhall any judgment entered upon confeſſion, or by *nil dicit*, or *non ſum informatus*, be reverſed, nor a judgment after enquiry of damages be ſtayed or reverſed for any omiſſion or fault, which would not have been a good cauſe to ſtay or reverſe the judgment if there had been a verdict. *a*

What defects to be regarded in caſe of demurrer.

XXVII. WHERE a demurrer ſhall be joined in any action, the Court ſhall not regard any other defect or imperfection in the writ, return, declaration or pleading, than what ſhall be ſpecially alledged in the demurrer, as cauſes thereof, unleſs ſomething ſo eſſential to the action or defence, as that judgment according to Law, and the very right of the cauſe cannot be given, ſhall be omitted. *a*

When a poſſeſſion of part of lands ſhall not be deemed a poſſeſſion of the whole.

XXVIII. IN controverſies affecting lands, tenements, or hereditaments, poſſeſſion of part ſhall not be conſtrued a poſſeſſion of the whole, when an actual adverſe poſſeſſion can be proved.

Actual poſſeſſion not neceſſary to maintain a writ of right.

XXIX. ACTUAL poſſeſſion need not be proved to maintain a writ of right.

Private Acts of Aſſembly may be given in evidence.

XXX. PRIVATE Acts of Aſſembly may be given in evidence without pleading them ſpecially. *a*

Jury may take with them papers, though not under ſeal.

XXXI. PAPERS read in evidence, though not under ſeal, may be carried from the bar by the jury. *a*

Interpreters may be ſworn.

XXXII. INTERPRETERS may be ſworn truly to interpret when neceſſary. *a*

Rule reſpecting non-ſuits.

XXXIII. EVERY perſon deſirous of ſuffering a non-ſuit on trial, ſhall be barred therefrom, unleſs he do ſo before the Jury retire from the bar. *a*

How many new trials may be allowed.

XXXIV. NOT more than two new trials ſhall be granted to the ſame party in the ſame cauſe. *a*

Exceptions to declarations in ejectment when to be made.

XXXV. AFTER iſſue joined in an ejectment on the title only, no exception of form or ſubſtance ſhall be taken to the declaration in any Court whatſoever. *a*

Scrolls by way of ſeals valid.

XXXVI. ANY inſtrument to which the perſon making the ſame, ſhall affix a ſcroll by way of ſeal, ſhall be adjudged and holden to be of the ſame force and obligation as if it were actually ſealed. *a*

What omiſſions in verdicts in detinue may be remedied, and how.

XXXVII. IF in detinue the verdict ſhall omit price or value, the Court may at any time award a writ of enquiry to aſcertain the ſame. If on an iſſue concerning ſeveral things in one count in detinue, no verdict be found for part of them, it ſhall not be error, but the Plaintiff ſhall be barred of his title to the things omitted. *a*

Where one of ſeveral counts is faulty, and there are general damages, the verdict ſhall be good.

XXXVIII. WHERE there are ſeveral counts, one of which is faulty, and entire damages are given, the verdict ſhall be good; but the Defendant may apply to the Court, to inſtruct the Jury to diſregard ſuch faulty count. *a*

Executions and other proceſs duly ſerved good, though not directed to any ſheriff.

XXXIX. AN execution, writ, or other proceſs appearing to be duly ſerved in other reſpects, ſhall be deemed good, although it be not directed to any Sheriff. *b*

Any judge of the General Court or juſtice may take ſpecial bail.

XL. ANY Judge of the General Court, when the Diſtrict Court is not ſitting, or any Juſtice of the Peace, may take recognizance of ſpecial bail, in any action depending in any Court of Record within this Commonwealth, which ſhall be tranſmitted by the perſon taking the ſame, before the next ſucceeding Court, to the Clerk of the ſaid Court, to be filed with the papers in ſuch action: The form of which recognizance ſhall be in the following words, to wit:

(a) 1789, *ch.* 28, *ſec.* 1, 2, 3, 7, 9, 10, 11, 12, 13, 14, 15, 16. *(b)* 1788, *ch.* 67, *ſec.* 75.

Form of the recognizance of special bail.

"County, to wit: MEMORANDUM, That upon the day of , in the year , E. F. of the County of , personally appeared before me (one of the Judges of the General Court, or a Justice of the County aforesaid, as the case may be) and undertook for C. D. at the suit of A. B. in an action of now depending in the [naming the Court where the suit is depending] that in case the said C. D. shall be cast in the said suit, he the said C. D. will pay and satisfy the condemnation of the Court, or render his body to prison, in execution for the same, or that he the said E. F. will do it for him." *a*

XLI. THE person taking such bail as aforesaid, shall, if required, at the same time, deliver to the person or persons acknowledging the recognizance aforementioned, a bail piece, in the words and form following, to wit:

Bail piece.

"County to wit: C. D. of the Parish of in the County aforesaid, is delivered to bail, on a cepi corpus unto E. F. of the Parish and County aforesaid, at the suit of A. B. the day of , in the year (*a*)

How notices may be given where no particular mode is prescribed by Law.

XLII. NOTICE on replevy bonds, and all other legal occasions, wherein no particular mode is, or shall be prescribed, shall be good, if given to the party in person, or delivered in writing to any free white person above the age of sixteen years, who shall be a member of the family of such person, and shall be informed of the purport of such notice, or left at some public place, at the dwelling-house, or other known place of residence of such person. *b*

A judgment by confession equal to a release of errors.

XLIII. A JUDGMENT on confession, shall be equal to a release of errors. *b*

Laws of costs not to be interpreted as penal laws.

XLIV. THE laws of costs shall not be interpreted as penal laws. *b*

Regulations in this act to be observed in all the Courts of this Commonwealth.

XLV. FOR removing all doubts concerning the Courts to which this act may apply, *Be it further enacted*, That all things herein contained, shall be the rules of decision and proceeding in all Courts whatsoever within this Commonwealth. *b*

Repealing clause.

XLVI. ALL and every Act or Acts, and all parts of Acts containing any thing within the purview of this Act, shall be, and are hereby repealed.

Proviso.

XLVII. *PROVIDED*, That nothing herein contained shall be construed to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the same shall remain in the same condition as if this Act had never been made.

Commencement of this Act.

XLVIII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXVII.

An Act for reducing into one, all Acts and Parts of Acts, concerning Suits brought for Sterling Money, and for ascertaining the Rate of Exchange, and Damages upon Protested Bills of Exchange.

[Passed the 12th of November, 1792.]

Preamble.

I. WHEREAS bills of exchange are accounted in all payments as ready money, and it is expedient for the advancement of trade and commerce, that the credit of such bills should be preserved by making the same a sufficient security, and expediting the recovery of money thereupon:

Fifteen per cent. damages and five per cent. per annum interest, to be paid on protested bills.

II. *BE it enacted by the General Assembly*, That where any bill of exchange is or shall be drawn for the payment of any sum of money, in which the value is or shall be expressed to be received, and such bill is or shall be protested for non-acceptance or non-payment, the drawer or indorser shall be subject to the payment of fifteen *per centum* damages thereon, and the bill shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid.

How suits may be bro't and judgment entered thereon.

III. IT shall be lawful for any person or persons, having a right to demand any sum of money upon a protested bill of exchange, to commence and prosecute an action of debt for principal, damages, interest, and charges of protest, against the drawers or indorsers jointly, or against either of them separately; and judgment shall and may be given for such principal, damages and charges, and interest upon such principal, after the rate aforesaid to the time of such

(a) 1761, *ch.* 6. *(b)* 1788, *ch.* 67, *sec.* 79, 69, 72. *By act of Dec. Sess.* 1798, *ch.* 13, 50 *Cts. allowed for each deft. on motions on forthcoming bonds in Dist. Ct. and by act of Dec. Sess.* 1800, *ch.* 12, 50 *Cts. allowed for each notice proved in Inferior Courts.*

judgment, and for intereſt upon the ſaid principal money, recovered after the rate of five *per centum per annum*, until the ſame ſhall be fully ſatisfied. *a*

In all bills of exchange is to be expreſſed what ſum in current money was paid therefor.

IV. IN all bills of exchange given for any debt due in current money of this Commonwealth, or for current money advanced and paid for ſuch bills, the ſum in current money that was paid, or allowed for the ſame, ſhall be mentioned and expreſſed in ſuch bill, and in default thereof, in caſe ſuch bill ſhall be proteſted, and a ſuit brought for the recovery of the money due thereby, the ſum of money expreſſed in ſuch bill, ſhall be held and taken as current money, and judgment ſhall be entered accordingly; and if any perſon ſo receiving or purchaſing a bill of exchange, ſhall expreſs, or cauſe to be expreſſed therein, any other than the true ſum in current money allowed for the ſame, every ſuch perſon ſo offending, ſhall forfeit and pay to the perſon drawing ſuch bill, the whole ſum of money for which ſuch bill ſhall be drawn, to be recovered with coſts by action of debt, in any Court of Record within this Commonwealth, wherein the ſame ſhall be cognizable. *b*

Penalty for inſerting any other ſum.

Drawer may compel the drawee by bill in chancery, to diſcover the true rate of exchange.

V. AND that people may not be injured for want of due proof of the rate of exchange ſo given or allowed for ſuch bills, where the ſame is not truly expreſſed therein, ſuch bills being uſually negotiated in ſecret, and with ſuch caution that it can ſeldom be detected in the ordinary courſe of evidence: *Be it further enacted*, That it ſhall and may be lawful for any drawer of ſuch bill of exchange, to exhibit a bill in Chancery, in any Court of Record in this Commonwealth, having Chancery juriſdiction, againſt the perſon to whom ſuch bill ſhall be payable, to compel him to diſcover upon his corporal oath, the true difference of exchange given or allowed for ſuch bill, and in that caſe if it ſhall appear that a leſs rate of exchange was given or allowed than is expreſſed, the drawee of ſuch bill ſhall be diſcharged from the penalty herein before inflicted for the ſame, but ſhall be decreed to pay to the drawer, ſo much money as the rate of exchange allowed, ſhall be leſs than the rate of exchange expreſſed, together with the damages of fifteen *per centum* thereon, and coſts of ſuit, to the time of ſuch decree. *b*

Judgment for a ſterling debt to be diſcharged at ſuch a difference of exchange as the court ſhall think proper.

VI. IN any action which hath been or ſhall be commenced, and is or ſhall be depending for the recovery of any ſterling money, in any Court of Record within this Commonwealth, wherein the Plaintiff or Plaintiffs ſhall recover, ſuch Court ſhall have power, and are hereby directed by rule to be entered at the foot of their judgment in ſuch action, to order ſuch judgment to be diſcharged or levied in current money, at ſuch a difference of exchange as they ſhall ~~think juſt~~; any law, uſage, or cuſtom, to the contrary in any wiſe, notwithſtanding.

Where a perſon may declare for ſterling money, and where not.

VII. IF any perſon ſhall in any ſuit hereafter to be brought, declare for ſterling money, except where the debt or duty is payable in ſterling, the Plaintiff in every ſuch ſuit ſhall be non-ſuited; and if any perſon ſhall after the paſſing of this act, take a bond, obligation, or note payable in ſterling for any current money debt, and ſhall bring ſuit thereon, the Court before whom ſuch ſuit ſhall be tried, upon proof being made thereof, ſhall order the judgment to be diſcharged or levied in current money, at the rate of thirty-three and one third *per centum*.

Judgments on bonds, &c. payable in ſterling, for current money debts, at what rate of exchange to be diſcharged.

Repealing clauſe. Proviſo.

VIII. ALL and every Act or Acts, within the purview of this Act, ſhall be, and are hereby repealed. *Provided*, That nothing herein contained, ſhall be conſtrued to extend to any contract entered into, or right which has accrued prior to the commencement of this Act, but the ſame ſhall remain in the ſame condition as if this Act had never been made.

Commencement of this Act.

IX. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. LXXVIII.

An Act, directing the Method of Proceeding in Courts of Equity againſt abſent Debtors, or other abſent Defendants, and for ſettling the Proceedings on Attachments againſt abſconding Debtors.

[Paſſed the 26th of December, 1792.]

Preamble.

I. WHEREAS creditors have experienced great difficulties in the recovery of debts due from perſons reſiding without the juriſdiction of this Commonwealth, but who have effects here ſufficient to ſatisfy and pay ſuch debts: For remedy whereof, *c*

(a) 1748, *ch.* 27, *ſec.* 1, 2, 3. *(b)* 1755, *ch.* 2, *ſec.* 4, 5. *(c)* 1744, *ch.* 1.

Courts of equity may stop the effects of absent defendants, who fail to enter appearance, in the hands of other persons.

II. *BE it enacted by the General Assembly*, That if in any suit which hath been, or hereafter shall be commenced for relief in equity in the High Court of Chancery, or in any other Court, against any Defendant or Defendants who are out of this country, and others within the same, having in their hands effects of, or otherwise indebted to such absent Defendant or Defendants, and the appearances of such absentees be not entered, and security given, to the satisfaction of the Court, for performing the decrees, upon affidavit that such Defendant or Defendants are out of the Country, or that upon enquiry at his, her, or their usual place of abode, he, she, or they, could not be found so as to be served with process, in all such cases, such Court may make any order, and require surety if it shall appear necessary, to restrain the Defendants in this country from paying, conveying away, or secreting the debts by them owing to, or the effects in their hands of such absent Defendant or Defendants, and for that purpose may order such debts to be paid and effects delivered to the said Plaintiff or Plaintiffs, upon their giving sufficient security for the return thereof to such persons, and in such manner as the Court shall direct. *a*

May direct them to be delivered to the plaintiff on his giving security.

And shall appoint a day for the defendants' appearance.

A copy of the order when and how to be published.

If the defendant fails to appear, the bill may be taken for confessed and decree entered.

III. THE Court shall also appoint some day in the succeeding Term, for the absent Defendant or Defendants to enter his or their appearance to the suit, and give security for performing the decree, a copy of which order shall be forthwith published in some public news-paper published in this State, convenient to the place where the Court is held, and continued for two months successively, and another copy shall be posted at the front door of such Court. If such absent Defendant or Defendants, shall not appear and give such security within the time limited, or such further time as the Court may allow, for good cause shewn, the Court may proceed to take such proof as the Complainant shall offer; and if they shall thereupon be satisfied of the justice of the demand, they may order the bill to be taken as confessed, and make such order and decree therein as shall appear just, and may enforce due performance and execution thereof, by such ways and means as hath heretofore been used for enforcing other decrees, requiring the Plaintiff or Plaintiffs to give security as the Court shall approve, for abiding such future order as may be made for restoring the estate or effects to the absent Defendant or Defendants, upon his or their appearance and answering the bill; and if the Plaintiff or Plaintiffs shall refuse to give, or not be able to procure such security, the effects shall remain under the direction of the Court in the hands of a Receiver, or otherwise, for so long time, and shall then be finally disposed of, in such manner as to the Court shall seem just. *a*

Plaintiff to give security for abiding such future order as may be made in the suit.

Plaintiff failing to give security, effects to remain under the direction of the court.

When and how persons affected by such decrees may have their cause reheard.

IV. If any person or persons who shall be out of the Commonwealth at the time any decree is pronounced as aforesaid, shall within seven years from the passing such decree, return, and appear openly; or in case of his or her death, if his or her Heir, Executor, or Administrator, shall, within the said seven years, be, and appear openly within this Commonwealth, the Plaintiff or Plaintiffs, their Executors or Administrators, shall serve such person or persons so returning or appearing, with a copy of the decree, within a reasonable time after such return or appearance shall be known to the Plaintiff or Plaintiffs, and thereupon such Defendant or Defendants, or their Representatives, may within twelve months after such service, or those Defendants not served with a copy, or their Representatives, may, within seven years after the decree pronounced, appear in Court and petition to have the cause reheard; and upon their paying down, or giving security for payment of such costs as the Court shall think reasonable, they shall be admitted to answer the bill, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree, and execution had, as if there had been no former decree in the cause: But, if the several Defendants, or their Representatives, upon whom the decree shall be so served, shall not within twelve months after such service, and the other Defendants, or their Representatives, upon whom no such service is made, shall not within seven years from the time of the decree pronounced, appear and petition to have the cause reheard as aforesaid, and pay or secure to be paid, such costs as the Court may think reasonable, all and every decree to be made in pursuance of this Act against any Defendant or Defendants so failing, shall stand absolutely confirmed against him, her, or them, by virtue of any Act or Conveyance, done or made, subsequent to the commencement of the suit; and at the end of such term, the Court may make such further order for quieting the Plaintiff or Plaintiffs in any such suits, in their possession and title to the estate and effects so sequestered or made liable, as to them shall seem reasonable, a

(a) *Oct.* 1777, *ch.* 15, *sec.* 36, 37, 39. 1744, *ch.* 1, *sec.* 7.

The same proceedings to be pursued against other absent defendants as against absent debtors.

V. IN all cases whatever, where a suit is or shall be depending in the High Court of Chancery, or other Court of Equity, concerning any matter or thing whatever against any absent Defendant or Defendants, the Court may, on satisfactory proof to them made, that such Defendant or Defendants, is or are out of this Commonwealth, or, that upon enquiry at his, her, or their usual place of abode, he, she or they could not be found, make any order similar to that which is directed to be made in case of absent debtors, adapting the same to the nature of the case; a copy of which order shall be published in like manner as is directed in case of absent debtors, and thereupon if the appearance of such absent Defendant or Defendants be not entered, the Complainant may proceed in like manner as if an appearance had been entered. *Provided always*, that where such decree shall be made, such absent Defendant or Defendants, may at any time within seven years, be permitted to file his, her, or their answer, and to shew cause why the said decree should be set aside; upon which the Court may make such decree as shall appear to be equitable. *a*

Attachments against absconding debtors, how to be obtained, executed and returned.

VI. IF any person shall make complaint to any Justice of the peace, that his debtor is removing out of the County or Corporation privately, or absconds or conceals himself, so that the ordinary process of Law cannot be served on him, such Justice shall grant an attachment against the estate of such debtor, or so much thereof, as shall be sufficient to satisfy the debt and costs of such Complainant; which attachment, where the debt or demand shall exceed five dollars, or two hundred pounds of tobacco, shall be returnable to the next County or Corporation Court, and directed to and served by the Sheriff, or his Under-Sheriff, unless in case where the Sheriff is a party interested, and then, the same shall be directed to, and served by a Coroner, or Serjeant; and it shall be lawful for such Sheriff, or Officer, to serve and levy the same, upon the slaves, goods and chattels of the party absconding, wherever the same shall be found, or in the hands of any person or persons indebted to, or having any effects of the party absconding, and to summon such garnishee or garnishees to appear at the next Court to be held for the said County or Corporation, there to answer upon oath, what he or she is indebted unto such party, and what effects of such party, he or she hath in his or her hands, or had at the time of serving such attachment; which being returned executed, the Court may thereupon compe such garnishee to appear and answer as aforesaid. *b*

Party obtaining one first to give bond and security, otherwise it shall be void.

VII. *PROVIDED always*, That every Justice of Peace, before granting such attachment, shall take bond and security of the party for whom the same shall be issued, in double the sum to be attached, payable to the Defendant, for satisfying and paying all costs which shall be awarded to the said Defendant, in case the Plaintiff suing out the attachment therein mentioned, shall be cast in his suit, and also all damages which shall be recovered against the said Plaintiff for his suing out such attachment; which bond shall be by the same Justice, returned to the Court to which the attachment is returnable; and the party entitled to such costs or damages, may thereupon bring suit, and recover; and every attachment issued without such bond taken, or where no bond shall be returned, is hereby declared illegal and void, and shall be dismissed.

Attachments repleviable by appearance, and giving bail, or security for appearance.

VIII. *PROVIDED also*, That all attachments shall be repleviable by appearance, and putting in good bail, if by the Court ruled so to do, or by giving bond with good security to the Sheriff or other Officer serving the same; which bond, the Sheriff or other Officer is hereby empowered and required to take, to appear at the Court to which such attachment shall be returnable, and to abide by and perform the order and judgment of such Court.

Rules where security is taken for appearance.

IX. *AND be it further enacted*, That upon the Defendant or Defendants replevying any attached effects, by giving bond and security to the Sheriff or other Officer as aforesaid, the Sheriff shall return the name of the security by him so taken; and if such security shall be adjudged insufficient by the Court, and if the Defendant shall fail to appear and give special bail, if thereunto ruled by the Court, such Sheriff and security shall be subject to the same judgment and recovery, and have the same liberty of defence and relief, as if such security had been taken upon the execution of mesne process.

Method of prosecuting attachments where the debt does not exceed 20 dollars, or 2000 lbs. of tobacco.

X. *AND be it further enacted*, That it shall be lawful for any creditor, where his debt doth not exceed twenty† dollars, or one thousand pounds of tobacco, to go before any Justice of the Peace of the County or Corporation where his debtor resides, and make oath how much is justly due to him, and that he hath

(a) *Oct.* 1787, *ch.* 9, *sec.* 3. (b) 1748, *ch.* 4, *sec.* 6. † *Encreased from* £. 5.

grounds to ſuſpect, and verily believes, that ſuch debtor intends to remove his effects; and thereupon ſuch Juſtice ſhall iſſue an attachment againſt the eſtate of ſuch debtor, returnable to his next County or Corporation Court, directed to all Sheriffs, Serjeants, and Conſtables within the Commonwealth; and by virtue thereof, it ſhall be lawful as well for the Sheriff, Serjeant, or any Conſtable of the County or Corporation where ſuch attachment ſhall be obtained, as for the Sheriff, Serjeant, or any Conſtable of other Counties or Corporations, to purſue and ſeize ſuch effects, and to make return of ſuch attachment to the Court where the ſame ſhall be returnable; and thereupon, ſuch proceedings ſhall be had without a petition, as in other caſes of attachment.

Where it is under 5 dollars, or 200 lbs. of tobacco.

XI. AND upon complaint made to a Juſtice of Peace, that any perſon indebted to the complainant in any leſs ſum than five dollars, or two hundred pounds of tobacco, is removing out of the County or Corporation privately, or ſo abſconds or conceals himſelf that a warrant cannot be ſerved upon him, ſuch Juſtice ſhall, taking bond and ſecurity, as in this Act is before directed, grant an attachment againſt the eſtate of ſuch debtor, or ſo much thereof, as ſhall be of value ſufficient to ſatisfy the debt and coſts of the party praying ſuch attachment, directed to the Sheriff, or any Conſtable of his County, or Serjeant, or any Conſtable of his Corporation, and returnable before himſelf or any other Juſtice thereof, who ſhall and may proceed thereupon, as upon an attachment returnable to the County or Corporation Court.

Where the attachment is not replevied, the plaintiff ſhall have judgment.

XII. AND if any attachment returnable to the County or Corporation Court, or before a Juſtice of Peace, ſhall be returned executed, and the goods or effects attached ſhall not be replevied as this act directs, the Plaintiff ſhall be entitled to a judgment for his whole debt, and may take execution thereupon; and all goods and effects attached and not replevied as aforeſaid, ſhall be ſold and diſpoſed of, for and towards ſatisfaction of the Plaintiff's judgment, in the ſame manner as goods taken in execution upon a writ of *fieri facias*. And where any attachment ſhall be returned ſerved in the hands of any Garniſhee, it ſhall be lawful upon his or her appearance and examination, in the manner by this Act before directed, to enter up judgment and award execution againſt every ſuch Garniſhee and Garniſhees, for all ſums of money due from him, her, or them, to the perſon abſconding, or in his, her, or their cuſtody or poſſeſſion, for the uſe of ſuch perſon, or ſo much thereof as ſhall be of the value ſufficient to ſatisfy the debt and coſts of the Complainant; and all goods and effects whatſoever, in the hands of any Garniſhee or Garniſhees, belonging to ſuch abſconding perſon, ſhall be liable to ſatisfy ſuch judgment.

Judgment againſt the garniſhee.

XIII. AND whereas attachments are frequently ſerved upon horſes, cattle, hogs, ſheep, and other live ſtock, which the Officers ſerving the ſame are obliged to retain in their cuſtody for a length of time, before an order of Court can be obtained for the ſale of ſuch live ſtock, or for want of buyers, during which time ſuch ſtock frequently periſh for want of proper food, or are greatly impoveriſhed, to the great detriment both of the creditor and his debtor: For remedy whereof, *Be it enacted*, that when any Sheriff or other Officer ſhall ſerve an attachment on horſes or other live ſtock, and the ſame ſhall not be immediately replevied or reſtored to the debtor, it ſhall and may be lawful for ſuch Officers, and they are hereby required to provide ſufficient ſuſtenance for the ſupport of ſuch live ſtock, until ſuch ſtock ſhall be ſold or otherwiſe legally diſcharged from ſuch attachment; and upon the trial of any attachment, the Court before whom ſuch attachment ſhall be tried, may and ſhall upon the motion of the Officer ſerving the ſame, ſettle and adjuſt what ſuch Officer ſhall be allowed for his expenſes incurred by ſupporting ſuch ſtock, to be taxed in the bill of coſts againſt the party againſt whom ſuch judgment ſhall be given on ſuch attachment, and the ſame ſhall be retained by the Officer out of the money ariſing from the ſale of ſuch ſtock; and the ſaid Officer ſhall and may retain the expenſes of ſupporting ſuch ſtock, taken as aforeſaid, out of the money ariſing from the ſale, to be ſettled in manner aforeſaid. And where the Plaintiff in any attachment ſhall be caſt, the expenſes aforeſaid ſhall be taxed in the bill of coſts againſt ſuch Plaintiff, for which the Defendant may take execution with the other coſts. *a*

Live ſtock attached to be ſupported by the officer.

And the expenſe defrayed out of the money ariſing from the ſales.

XIV. *AND be it further enacted*, That upon proof being made before a Magiſtrate, that a debtor is actually moving or abſconding as aforeſaid on Sunday, it ſhall be lawful to iſſue and ſerve an attachment againſt ſuch debtor, as is directed by this act on any other day.

Attachments may be iſſued on Sundays.

(*a*) 1772, *ch.* 6, *ſec.* 2.

Penalty on master of a vessel carrying any person out of the Commonwealth, unless such person has advertised in the Gazette his intention to leave it.

XV. NO master of a ship or other vessel shall transport or carry any person whatsoever out of this Commonwealth, unless such person shall first have published for six weeks successively in the *Virginia* Gazette, his, or her resolution to depart therefrom, under the penalty of answering and paying every debt and duty such person at his or her departure out of this Commonwealth shall owe, or stand bound for to the Commonwealth, or to any Citizen thereof, by judgment, bond, bill, covenant, account, or by any other ways or means whatsoever, to be recovered against such master by action of debt, in any Court of Record within this Commonwealth. *a*

Such master may be sued at any time, and ruled to give special bail.

XVI. EVERY master of every ship or other vessel offending herein, shall be liable to be sued at any time for any debt due or owing from the person so transported. And whensoever any such action or suit shall be brought against him, the Court wherein the same shall be depending, may rule the Defendant to give special bail, and the Clerk shall endorse on the writ, that appearance bail is required: *Provided*, the Plaintiff shall make affidavit before a Magistrate of the cause of action, which shall be transmitted to the Clerk of the Court. *a*

Repealing clause.

XVII. ALL and every Act or Acts, and part of Acts within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this Act.

XVIII. THIS Act shall commence and be in force from and after the passing thereof.

CHAP. LXXIX.

An Act declaring the Law concerning the Escape of Debtors and other Prisoners.

[Passed the 24th of November, 1792.]

Process against prisoners escaped.

I. FOR the more effectual retaking and securing persons who escape out of Prison: *Be it enacted*, that if any person committed, rendered, or charged in custody, in execution, or upon mesne process, to any County or Corporation Prison, or to the Jail of any District, shall thence escape, it shall and may be lawful for any Justice of the Peace in the County or Corporation where such prisoner was in custody, upon oath of such escape before him made by the Sheriff, Under-Sheriff, Serjeant, Jailor, or other credible person, to grant unto any one demanding the same, one or more warrants under his hand and seal, directed to all Sheriffs, Mayors, Serjeants, Bailiffs and Constables, within this Commonwealth, reciting the cause of such prisoner's commitment, and time of his or her escape, and commanding them, and every of them in their respective Counties, Cities, Towns, and Precincts, to seize and retake such prisoner so escaped or going at large, and being so retaken, forthwith to convey and commit to the Prison where debtors are usually kept in the County or Corporation where such retaking shall be, there to be kept in safe custody, until he or she be thence discharged by due course of Law: which warrant the Sheriff or other Officer is hereby required to obey, and to receive the prisoner into his safe custody, and to give a note to the person or persons delivering him or her, testifying his receipt of such prisoner, and shall also make return of the execution of such warrant to the Court of that County, Corporation, or District from whence the prisoner escaped; and if he or she was there in custody, charged in execution, then the Sheriff or other Officer shall safely keep him or her, without bail or mainprize, until he or she shall make full payment and satisfaction to the Plaintiff or Plaintiffs, Creditor or Creditors, in whose name such execution was sued out, or until the judgment or judgments obtained against him or her shall be reversed or discharged by due course of Law. And if such prisoner shall have been in custody upon mesne process, in any action of debt, or upon the case, the Sheriff or other Officer to whom he or she shall be so recommitted, shall, in like manner, keep such prisoner in his safe custody, and make return of the execution of the warrant by which he or she was retaken, to the Court of that County, Corporation, or District wherein he or she was first arrested, and thereupon it shall be lawful for the said Court, upon the Plaintiff's or Creditor's filing his declaration, to proceed and give judgment thereon according as the truth of the case shall appear to them, in the same manner as if the Defendant had appeared in the said Court and refused to plead, unless such Defendant shall cause special bail to be entered in the said Court, and shall immediately plead

Escape warrants.

Return thereof upon retaking the prisoner and proceeding thereon.

(a) *Enacted anew from* 1748, *ch.* 17, *sec.* 1, 2.

to iſſue, and then upon certificate under the hand of the Clerk of the ſaid Court, that ſuch bail is given, delivered to the Sheriff or other Officer in whoſe cuſtody ſuch Defendant then ſhall be, it ſhall be lawful for the ſaid Sheriff or other Officer to ſet at large ſuch priſoner, and not otherwiſe; but where any priſoner eſcaped and retaken upon ſuch warrant as aforeſaid, ſhall thereafter be charged with Treaſon, Felony, or other Crime or Cauſe in behalf of the Commonwealth, for which he or she ought to be tried in the Diſtrict Court, and ſhall be for ſuch cauſe removed to the Jail of the Diſtrict Court, every ſuch priſoner ſhall be charged in the ſaid Diſtrict Jail, with all the cauſes wherewith he or she ſtood charged in the priſon from whence he or she was removed, until he or she be thence delivered by due courſe of Law, in like manner as is herein before directed. *a*

Mode of proceeding againſt priſoners eſcaping from the priſon rules.

II. WHEN any perſon in execution, who ſhall have obtained the liberty of the Priſon Rules, by giving bond and ſecurity for the ſame, ſhall hereafter eſcape and go out of the ſame, the Sheriff or other Officer of the County or Corporation where ſuch priſoner was in cuſtody, ſhall, and he is hereby required immediately to apply to a Juſtice of the Peace for an eſcape warrant, to retake ſuch priſoner according to the directions of this Act, and ſuch Sheriff or other Officer ſhall, and he is hereby required immediately to give notice thereof to the Creditor at whoſe ſuit he was in cuſtody, or to his Attorney or Agent, and ſhall aſſign over and deliver to ſuch Creditor, or his Attorney, the bond by him taken for the liberty of the Priſon Rules, who ſhall be obliged to receive the ſame; and thereupon it ſhall and may be lawful for ſuch Creditor, or his Attorney, to purſue the method directed by this Act for retaking ſuch Debtor upon the eſcape warrant aforeſaid; and if he be retaken thereupon, and committed to Jail, the ſecurities for his keeping the Priſon Rules, ſhall be diſcharged from their bond, or ſuch Creditor, or his Attorney, ſhall or may, at their election, commence and proſecute an action or ſuit at Law againſt the ſecurity or ſecurities named in ſuch bond, for the recovery of his debt, notwithſtanding he ſhall have applied for and obtained an eſcape warrant againſt his Debtor, as aforeſaid, if ſuch Debtor is not retaken and committed to Jail thereupon; and the Sheriff or other Officer ſhall not be liable or anſwerable for the payment of the debt for which ſuch priſoner was in cuſtody, unleſs the ſecurity or ſecurities named in the bond by him taken of ſuch priſoner for the liberty of the Priſon Rules, ſhall afterwards be found to have been inſufficient for the payment of ſuch debt at the time the ſame was taken. *b*

Sheriff not liable, unleſs the priſoner eſcaped with his conſent, or through his negligence, or unleſs he neglected to retake him when he might.

Action of debt may be maintained againſt Sheriff ſuffering debtor in execution to eſcape.

III. AND whereas the ſituation of moſt Priſons in this Commonwealth, hath given opportunities to evil diſpoſed perſons to break open the ſame, and turn out Debtors and others in cuſtody, to the hindrance of juſtice, prejudice of Creditors, and ruin of Sheriffs, who have been compelled to pay the debts with which ſuch priſoners ſtood charged: For remedy thereof, *Be it further enacted*, that no judgment ſhall be entered againſt any Sheriff or other Officer, in any ſuit brought upon the eſcape of any Debtor in his or their cuſtody, unleſs the Jury who ſhall try the iſſue, ſhall expreſsly find that ſuch Debtor or priſoner did eſcape with the conſent or through the negligence of ſuch Sheriff (or Serjeant) or his Officer or Officers, or that ſuch priſoner might have been retaken, and that the Sheriff (or Serjeant) and his Officers, neglected to make immediate purſuit. *Provided always*, that where any Sheriff or other Officer ſhall have taken the body of any Debtor in execution, and ſhall wilfully and negligently ſuffer ſuch Debtor to eſcape, the perſon ſuing out ſuch execution, his Executors or Adminiſtrators, ſhall and may have and maintain an action of debt againſt ſuch Sheriff or other Officer, his Executors or Adminiſtrators, for the recovery of all ſuch ſums of money, and tobacco, as are mentioned in the ſaid execution, and damages for detaining the ſame; any Law, cuſtom, or uſage to the contrary, notwithſtanding. If any private perſon have any priſoner in his keeping arreſted for ſuſpicion of Felony, Treaſon, or Murder, and the perſon that is ſo arreſted eſcape by negligent keeping, before that he be brought to the Jail, then the perſon from whom ſuch priſoner ſo eſcaped, ſhall be liable to a fine on being found guilty on an indictment in the Court of that Diſtrict in which ſuch eſcape was made. *c*

Penalty on private perſons ſuffering criminals in their cuſtody to eſcape.

IV. ALL and every Act and Acts, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provi-*

Repealing clauſe. Proviſo

(*a*) 22 *Geo.* 2, *ch.* 6, *ſec.* 13. (*b*) 5 *Geo.* 3, *ch.* 6, *ſec.* 1. (*c*) 22 *Geo.* 2, *ch.* 6, *ſec.* 12. 27 *Geo.* 2, *ch.* 1, *ſec.* 37. 1789, *ch.* 30, *ſec.* 15.

dea always, that all rights, remedies, fines, forfeitures and penalties, incurred previous to the passing of this Act, shall remain in the same condition as if this Act had never been made.

Commencement of this Act.

V. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXX.

An Act to reduce into one, all Acts and Parts of Acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of November, 1792.†]

Sheriffs, how to be nominated and appointed.

I. BE *it enacted by the General Assembly*, That the Court of every County within this Commonwealth, shall in the month of *June* or *July*, annually, nominate to the Governor or Chief Magistrate for the time being, three persons named in the commission of the peace, for such County, one of which persons so nominated, being approved by the Governor, with the advice of the Privy Council, shall be commissioned by the Governor, to execute the office of Sheriff in such County. *a*

Penalty on the Justices for not making the nomination.

II. IF the Court of any County shall fail to nominate persons for the office of Sheriff, within the periods above prescribed, every Justice so neglecting, shall forfeit and pay the sum of two hundred dollars. *b*

If a sheriff fails to give bond and security in 2 months, the clerk of the court to certify it to the Executive.

III. IF any person hereafter appointed Sheriff of any County, shall not within two months after his appointment, give bond and sufficient security, for the true and faithful performance of his duty as Sheriff, and also for the collection of taxes, the Clerk of the Court of such County shall, within one month thereafter, transmit to the Governor for the time being, a certificate of such neglect or failure, under the penalty of three hundred dollars. *b*

When the sheriff fails to give bond & security, or the person first nominated fails to apply for a commission, the Executive may commission some other person.

IV. IF the person first commissioned to the said office of Sheriff, shall fail to give bond in two months after his appointment, and the Clerk shall certify the same as above required, or if the person first nominated shall fail to make application to the Governor or Chief Magistrate, for a commission, within one month after such nomination, the Governor, with advice of Council, is hereby authorised and required to issue a commission to some other person nominated by the Court, which commission, to all intents and purposes, shall supercede and annul the former commission; and if the person thereafter commissioned, or nominated as aforesaid, shall be guilty of the like neglect, the Governor, with the advice of the Council, is hereby authorised and required, in either case, to commission any other person or persons nominated by the Court, which last commission shall in like manner supersede the former. *b*

How a sheriff is to be appointed in the room of one dying.

V. IF any Sheriff shall die in the time of his sheriffalty, the Governor, with the advice of the Council, may, and is hereby empowered and required, to commission some other person nominated by the Court, to be Sheriff in his room.

How long they shall be continued in office.

VI. EVERY person hereafter commissioned and qualified as aforesaid, shall be continued in office for one year after his qualification, and may, with his own consent, and the approbation of the Executive, be continued for two years, and no longer; unless by some accident or impediment, a succeeding Sheriff shall be prevented from qualifying, in which case the preceding Sheriff shall continue to act, until a successor shall be qualified according to the directions of this Act. *c*

How long they shall continue in office when appointed in the room of others dying.

VII. AND whereas inconveniences and disputes may arise, in case of the death of a Sheriff before his term of service may expire, and in such case the person appointed to succeed to the office of Sheriff, must serve one year from the time of such appointment, if not continued for two years, with his own consent, and with the approbation of the Executive, and in that case for two years from such appointment, which may occasion the Sheriffs in different parts of the country, to be appointed at different periods of the year: *Be it therefore enacted*, That when by the death of any Sheriff, another shall be appointed at any other time than in the months of *June* or *July*, the Governor, with advice of Council, may continue such successor in office, until the Court to be held in the months of *June* or *July* next after his two years continuance therein, shall expire; any thing in this Act to the contrary notwithstanding. *d*

† *Amended in* 1795, *ch.* 16, *and in* 1796, *ch.* 8. (*a*) *Oct.* 1783, *ch.* 2. '85, *ch.* 43. (*b*) *Oct.* 1784, *ch.* 59, *sec.* 1. 1783, *ch.* 2. (*c*) 1785, *ch.* 42. (*d*) 1763, *ch.* 2, *sec.* 3.

Sheriffs to give bond & security for duly collecting and accounting for the public taxes.

VIII. EVERY perſon accepting the commiſſion of Sheriff, ſhall, before his being ſworn into, or executing his office, enter into one bond before the Juſtices of his County Court, payable to the Governor of this Commonwealth, for the time being, and his ſucceſſors, for the uſe of this Commonwealth, with good and ſufficient ſecurity, in the ſum of thirty thouſand dollars, for the true and faithful collecting, accounting for, and paying the taxes impoſed by Law in his County; which bond every County Court is hereby empowered and required to demand, take, and cauſe to be acknowledged before them in open Court, and recorded: And an atteſted copy thereof ſhall be tranſmitted by the Clerk to the Auditor of Public Accounts, which ſhall be admitted as evidence in any ſuit, motion or proceeding founded thereon. *a*

When the Executive may appoint collectors of the public taxes.

IX. IF upon the refuſal to act, or diſability of any Sheriff, it ſhall appear proper to the Executive to appoint a Collector, it ſhall be lawful for them to make ſuch appointment, and the perſon ſo appointed Collector, ſhall give bond and ſecurity in the ſame manner as the Sheriffs do for duly collecting and accounting for the public revenue, and ſhall poſſeſs every power, and be liable to every penalty, which the Sheriff would have poſſeſſed, or been liable to.

Sheriffs to give bond & ſecurity for duly collecting and accounting for all public levies, fines, &c.

X. EVERY perſon accepting the commiſſion of Sheriff, ſhall likewiſe enter into another bond with two good and ſufficient ſecurities at the leaſt, in the ſum of , with a condition in the following form, to wit:

THE condition of the above obligation is ſuch, that whereas the above bound A. B. *is conſtituted and appointed Sheriff of the County of , by a commiſſion from the Governor, under the ſeal of the Commonwealth, dated the day of , laſt paſt. If therefore, the ſaid* A. B. *ſhall well and truly collect all levies, and account for and pay the ſame in ſuch manner as is by Law directed, and alſo all fines, forfeitures, and amercements, accruing or becoming due to the Commonwealth in the ſaid County, and ſhall duly account for and pay the ſame to the Treaſurer of this Commonwealth for the time being, for the uſe of the Commonwealth, in like manner as is or ſhall be directed in caſe of public taxes, and ſhall in all other things truly and faithfully execute the ſaid office of Sheriff, during his continuance therein, then the above obligation to be void, otherwiſe to remain in full force and virtue.* *b*

And for collecting and accounting for officers' fees, and duly diſcharging the duties of his office.

And ſhall alſo enter into one other bond before ſuch Court, with the like ſecurities, in the ſum of , with a condition, in the following form, to wit:

THE condition of the above obligation is ſuch, that whereas the above bound A. B. *is conſtituted and appointed Sheriff of the County of , by commiſſion from the Governor under the Seal of the Commonwealth, dated the day of , laſt paſt, If therefore the ſaid* A. B. *ſhall well and truly collect and receive all officers fees and dues put into his hands to collect, and duly account for and pay the ſame to the Officers to whom ſuch fees are due reſpectively, at ſuch times as are preſcribed and limited by Law, and ſhall well and truly execute, and due return make of all proceſs and precepts to him directed, and pay and ſatisfy all ſums of money and tobacco by him received by virtue of any ſuch proceſs, to the perſon or perſons to whom the ſame are due, his, or their Executors, Adminiſtrators or Aſſigns; and in all other things ſhall truly and faithfully execute and perform the ſaid office of Sheriff, during the time of his continuance therein, then the above obligation to be void, otherwiſe to remain in full force and virtue.* *b*

Sheriffs bonds, to whom to be made payable. How ſuits may be bro't thereon.

XI. WHICH bonds ſhall be made payable to the Governor or Chief Magiſtrate for the time being, and his ſucceſſors, and entered of Record in the County Court. And in the name of the Governor or Chief Magiſtrate, or his ſucceſſors, any perſon or perſons injured, may and ſhall at his, her, or their coſts and charges, commence and proſecute ſuits on ſuch laſt mentioned bond, againſt the parties therein bound, their Executors or Adminiſtrators, and ſhall and may recover all damages which he, ſhe, or they may have ſuſtained by reaſon of the breach of the condition of his bond; and ſuch bond ſhall not become void upon the firſt recovery, or if judgment ſhall be given againſt any Plaintiff or Plaintiffs, who ſhall ſue upon ſuch bond; but may be put in ſuit and proſecuted from time to time, for the benefit, and at the proper coſts and charges of any party injured, until the penalty expreſſed in ſuch bond ſhall be recovered. *Provided always*, that if any verdict or judgment ſhall paſs for ſuch Sheriff, or his ſecurity, the perſon at whoſe inſtance ſuch ſuit ſhall be brought or proſecuted, ſhall pay ſuch Sheriff or his ſecurity their coſts. *b*

No perſon to act as a deputy ſheriff more than

XII. NO perſon whatſoever ſhall be capable to ſerve or execute the office of Under-Sheriff, or Deputy-Sheriff of any County, for any longer time than

(*a*) 1781, *ch.* 40, *ſec.* 4. *May* 1780, *ch.* 10. *Oct.* 1782, *ch.* 39. *Oct.* 1783, *ch.* 2. (*b*) 1755, *ch.* 2, *ſec.* 12. 1781. *ch.* 40. 1783, *ch.* 39.

two years, unless he has collected and accounted for the public taxes.

two years in any period of four years, unless he shall produce to the Court of the County, satisfactory proof of his having collected and accounted for the taxes assigned to him by his former principal. *a*

Sheriffs and collectors to deliver to persons paying officer's fees, taxes, &c. fair accounts and receipts.

XIII. EVERY Sheriff, Deputy-Sheriff, or Collector, who shall hereafter receive from any person or persons, any officers fees, dues, taxes, County levies, or poor rates, shall deliver to the person so paying, a fair and distinct account of the several articles for which he shall receive the same, and also a receipt for what shall be so paid him; and every Sheriff, Deputy-Sheriff, or Collector, failing herein, shall forfeit and pay to the person by whom such payment shall be made, the sum of four dollars for each offence; to be recovered with costs before any Justice of the Peace of the County, where such Sheriff, Deputy-Sheriff, or Collector, shall reside; and such Sheriff or other Officer shall moreover be liable to the party grieved for all damages he may sustain, by means of such Officer's demanding and receiving a greater sum than shall be really due; to be recovered by action of trespass on the case, before any Court of Record within this Commonwealth, in which action, where the Plaintiff shall recover, he shall also recover full costs. *b*

Sheriffs and other officers to execute process within their counties, & on the bays, rivers, and creeks adjoining thereto.

XIV. EVERY Sheriff himself, or by his lawful Officers, or Deputies, shall from time to time execute all writs and other process to him legally issued and directed, within his County, or upon any Bay, River or Creek adjoining thereto, and shall make due return thereof, under the penalty of forfeiting twenty dollars for every failure; one moiety to the Governor for the time being, for the better support of the Government, and the contingent charges thereof, and the other moiety to the party grieved; to be recovered with costs by action of debt or information in any County Court of this Commonwealth; and such Sheriff shall be further liable to the action of the party grieved at common Law, for his or her damages; and for every false return, the Sheriff shall forfeit and pay sixty dollars, to be recovered, divided and applied in the same manner as last mentioned; and shall also in like manner, be liable to the party grieved for damages. *c*

Penalty for a false return thereof.

When the sheriff may return that the defendant is not found.

XV. NO Sheriff shall return, upon any writ to him directed, that the Defendant is not found in his bailiwick, unless such Sheriff or other Officer shall have actually been at the dwelling-house or place of abode of such Defendant, and not finding him, shall have there left an attested copy of the same writ or process; and where any Defendant shall be a known inhabitant of any County, and not of the County of that Sheriff to whom the process shall be directed, such Sheriff shall return the truth of the case, but not that the person is not found in his County, and thereupon such process issued from any County Court Clerk's office as to such Defendant, shall abate and be dismissed. *c*

No process to be served on Sundays.
Nor on persons attending musters of militia; Elections; or as witnesses;

XVI. **PROVIDED* *always*, That it shall not be lawful for any Sheriff or other Officer, to execute any writ or process upon the Lord's day, commonly called *Sunday*, nor upon any person attending his duty at any muster of militia, or any election of Members of the State Legislature, or of that of the United States, or at any Election for the appointment of Electors to vote for a President of the United States; nor on any person attending as a witness, being duly summoned, at or on any order of survey issued from any Court, or as a witness attending on arbitration made by order of Court, or attending commissioners appointed to take depositions in the case of contested Elections; and that all process so executed, shall be illegal and void, unless the same be issued against any person or persons for Treason, Felony, Riot, Breach of the Peace, or upon any escape out of prison or custody, and such process shall and may be executed at any time or place.† *c*

Except in cases of treason, felony, riot, breach of the peace, and escape.

Bonds taken by sheriffs from prisoners except in cases directed by law, void.

XVII. IT shall not be lawful for any Sheriff or his Officer, or Deputy, to take any obligation of, or for any person or persons in his custody, for or concerning any matter relating to his office, otherwise payable than to himself as Sheriff, and dischargeable upon the prisoner's appearance, and rendering himself at the day and place required in the writ, whereupon he was or shall be taken or arrested: And every obligation by any Sheriff taken in other manner or form, by colour of his office, shall be null and void; except in any special

(*a*) 1772, *ch.* 11, 1787, *ch.* 40. (*b*) 1772, *ch.* 11, *sec.* 3. (*c*) 1748, *ch.* 6, *sec.* 5.

**See pa.* 117, *sec.* 14, *by which attachments vs. absconding debtors, may be served on Sundays.* † *See ch.* 141, *post, sec.* 6, *whereby witnesses are privileged in all cases except treason, felony, and breaches of the peace, during their attendance, and afterwards one day for every* 20 *from their places of abode.*

caſe, any other obligation is or ſhall be by Law particularly and expreſsly directed *a*

Sheriffs not to take more than the legal fees.

XVIII. NO Sheriff of any County within this Commonwealth, ſhall demand or take any other greater fee or reward whatſoever, nor ſhall have any allowance, reward, or ſatisfaction from the public, for any ſervices or buſineſs by him done, other than the allowance given and provided by Law; all other ſervices ſhall be by him done *ex officio*. *b*

Sheriffs to collect all levies, fines, &c. and poor rates, where appointed by the overſeers of the poor.

XIX. EVERY Sheriff ſhall collect and receive the taxes due to the Commonwealth, and ſhall alſo collect all levies, fines, forfeitures and amercements, and all Officer's fees, (and poor rates when appointed by the Overſeers of the Poor to collect the ſame) and ſhall account for and pay the ſame in the manner directed by Law. *c*

Not to diſtrain ſlaves where there is other ſufficient diſtreſs, or to make unreaſonable diſtreſſes.

XX. NO Sheriff or other Officer, nor any Collector of taxes, levies, fines, forfeitures, amercements, or poor rates, or Officer's fees, ſhall at any time ſeize or diſtrain the ſlave or ſlaves of any perſon or perſons, if other ſufficient diſtreſs can be had, nor ſhall make or take unreaſonable ſeizures or diſtreſſes, upon penalty of being liable to the action of the party grieved, grounded upon this act, in which action the Plaintiff ſhall recover his full coſts, although the damages given may not exceed ſeven dollars. *c*

May impreſs guards for ſecuring criminals in jail.

XXI. WHERE any perſon or perſons accuſed of treaſon, felony, or other capital crime, ſhall be committed to any County Jail, and the Sheriff ſhall have cauſe to ſuſpect ſuch perſon will attempt to eſcape, ſuch Sheriff is hereby empowered and required to impreſs ſufficient guard for ſecuring ſuch priſoner or priſoners, ſo long as he, ſhe, or they continue in the ſaid jail, to be paid by the Public, after the rate of fifty cents for each man *per* day, in the ſame manner as the charges of ſummoning and holding Courts, for the examination of criminals.

Method of turning over priſoners by the ſheriff to his ſucceſſor.

XXII. AND for removing all controverſies, touching the manner of turning ~~over priſoners upon~~ a Sheriff's quitting his office: *Be it further enacted*, That the delivery of priſoners by indenture, between the old Sheriff and the new, or the entering upon record in the County Court, the names of the ſeveral priſoners and cauſes of their commitment, delivered over to the new Sheriff, ſhall be ſufficient to diſcharge the late Sheriff from all ſuits or actions for any eſcape that ſhall happen afterwards. *d*

Sheriffs commiſſion for collecting taxes, fines, &c.

XXIII. EVERY Sheriff ſhall have and may retain for all taxes, fines, forfeitures, and amercements, and all Officer's fees, except Clerks and Surveyor's fees and levies, an allowance of five *per centum* for collecting and paying the ſame, and no more.† *d*

Sheriff ſhall not be obliged to go out of his county to pay money levied by execution, &c.

XXIV. NO Sheriff ſhall be obliged to go out of his County to pay money levied by execution, or to give notice to creditors at whoſe ſuit any perſon may be in cuſtody of ſuch Sheriff. *e*

Sheriffs remedy againſt his deputy in certain caſes.

XXV. THE High Sheriff of a County ſhall have the ſame remedy and judgment againſt his Under-Sheriff or Deputy, or the ſecurities of ſuch Under-Sheriff or Deputy, failing to pay the money by him received on any execution to the High Sheriff, or the party to whom the ſame is payable, his agent or attorney, or ſuffering any perſon in his cuſtody to eſcape, as the Creditor at whoſe ſuit the writ iſſued may have againſt the High Sheriff, or ſuch Under-Sheriff or Deputy, or the ſecurities of ſuch Under-Sheriff or Deputy. *f*

Deputy Sheriff, to indorſe on executions the time when received, & to ſubſcribe his own & his principal's names to returns on proceſs.

XXVI. AND to prevent diſputes between Sheriffs and their ſeveral Deputies, which of them may have acted in ſerving of executions or proceſs: *Be it further enacted*, That when any Under-Sheriff hath ſerved any writ, execution, attachment, or other proceſs whatſoever, he ſhall endorſe on the back of ſuch writ, the day of the month he or they ſhall have ſerved the ſame, and ſubſcribe his name, as well as that of his principal, to the return of ſuch writ or other proceſs; and every Under-Sheriff failing herein, ſhall be liable to the ſame penalty as is by Law inflicted on the Sheriff for a falſe return, and to be recovered and appropriated in the ſame manner. *f*

Sheriff's remedy againſt his deputy failing to ac-

XXVII. WHERE the Sheriff of any County heretofore hath, or hereafter ſhall appoint any perſon to be his Under-Sheriff, to collect the taxes required by

(*a*) 1748, *ch.* 6, *ſec.* 7. (*b*) 1705, *ch.* 2, *ſec.* 7. 1748, *ch.* 6, *ſec.* 7. (*c*) 1748, *ch.* 6, *ſec.* 8, 11. (*d*) 1748, *ch.* 6, *ſec.* 16, 17. † *By act of* 1796, *ch.* 8, *pa.* 12, *ſheriffs are allowed for collecting taxes, an additional compenſation of* 2 1-2 *per cent.* (*e*) 1769, *ch.* 3, *ſec.* 13; *ſee poſt, ch.* 151, *ſec.* 52. (*f*) 1763, *ch.* 5.

count for public taxes received by him.

Law in his County, and such Under-Sheriff shall neglect, or refuse to account for, and pay such taxes to the Sheriff under whom he hath been or shall be appointed, or to the Treasurer at the time appointed for paying the same, it shall, and may be lawful for the District Court, or Court of the County whereof he hath been, now is, or shall be Sheriff, upon motion to them made by such Sheriff, his Executors or Administrators, to give judgment against such Under-Sheriff, his securities, their Heirs, Executors or Administrators, for all the money wherewith he shall be chargeable, and five *per centum* damages, and five *per centum* interest thereon, and to award execution for the same; provided such Under-Sheriff, and his securities, have ten days previous notice of such motion:

Proviso.

Provided also, That no execution shall be issued against an Under-Sheriff and his securities, for the five *per centum* damages, and interest thereon, unless judgment shall have been obtained against the High Sheriff for the same. *a*

Where Sheriff's lands would have been bound for public debts, they shall be bound in like manner for reimbursement of their securities paying such debts.

XXVIII. WHERESOEVER the lands of any Sheriff or Collector would have been bound for any debt due to the Commonwealth, they shall be bound in like manner, to the security or securities who may have paid the whole or a part of such debt, and it shall be lawful for the General Court, or District Courts to award a like execution against the said lands, on the motion of such securities, to that which would have been issued on behalf of the Commonwealth, provided that ten days previous notice shall be given to the principal, his Heir or Devisee, as the case may be. *b*

Repealing clause. Proviso.

XXIX. ALL and every Act and Acts, or parts of Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided*, that all rights and remedies given by such Act or Acts, and all such parts of Acts, shall be, and remain as if this Act had not been made.

Commencement of this act.

XXX. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXI.

An Act concerning Coroners.

[Passed the 29th of November, 1792.]

Coroners, how to be nominated and commissioned.

I. BE *it enacted by the General Assembly*, That from time to time hereafter, as often as there shall be a vacancy in the office of Coroner, in any County or Corporation within this Commonwealth, the Court of such County or Corporation shall, at their next Session thereafter, nominate two fit and discreet persons, residing within such County or Corporation, to be Coroner thereof; one of which persons, being approved by the Governor, with the advice of the Council, shall be commissioned by the Governor to execute the office of Coroner within such County or Corporation during good behaviour. *c*

Penalty on the Court failing to make the nomination.

II. IF any Court shall fail to make such nomination at the time prescribed by this Act, every Justice of such Court shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered by action of debt in any Court of Record within this Commonwealth, one half to the use of the Informer, the other half to the use of the Commonwealth; or by information at the suit of the Auditor, in the General Court, in which case the whole penalty shall be to the use of the Commonwealth.

Several Coroners may be appointed in each county.

III. *PROVIDED always*, That nothing in this Act contained, shall be construed to restrain or prevent the County or Corporation Courts from nominating any person or persons to the Governor, to be Coroner within such County or Corporation, whensoever in their opinion a necessity may arise of having more than one Coroner in such County or Corporation.

But to act only within the limits of their respective counties.

IV. *PROVIDED also*, That no Coroner appointed for a County or Corporate Town, shall execute any of the duties of his office, except within such Town or County, for which he shall have been so appointed.

Oaths to be administered to them.

V. EVERY Coroner so commissioned, before he enters upon the duties of his office, shall, in open Court, take the oath of fidelity to the Commonwealth, and the following oath of office, viz.

I, A. B. do swear, that I will well and truly serve the Commonwealth, in the office of a Coroner, in the County or Corporation of , and therein will diligently and truly do all things appertaining to my said office, according to the best of

(*a*) *May* 1780, *ch.* 11. 1787, *ch.* 11, *sec.* 4. (*b*) *From* 1788, *ch.* 74, *sec.* 5.
(*c*) 3 *Edw.* 1, *ch.* 10. 14 *Edw.* 3, *ch.* 8.

my knowledge and power, both for the common weal, and the good of the Inhabitants within the ſaid County or Corporation, taking ſuch fees only as are by Law allowed. So help me GOD.

And before he ſhall be at liberty to ſerve any writ of execution, ſhall moreover, in the Court of his County or Corporation, enter into bond with good and ſufficient ſecurity, payable to the Governor for the time being, and his ſucceſſors, for the uſe of the Commonwealth, in the penalty of ten thouſand dollars, with condition for the true and faithful execution of his office. And if any Coroner ſhall preſume to ſerve any ſuch writ of execution without firſt taking the ſaid oaths, and entering into bond as by this Act is directed, he ſhall forfeit and pay the ſum of fifteen hundred dollars, one half to the uſe of the informer, the other half to the uſe of the Commonwealth; and ſhall moreover be liable to the ſame damages, judgment, and execution at the ſuit of the party grieved, in caſe of any miſdemeanor or breach of duty in the execution thereof, as he would have been ſubjected to in the like caſe, after having been duly qualified to execute his ſaid office.

Not to ſerve executions until they have given bond and ſecurity.

Under a penalty,

VI. UPON requeſt made to a Coroner to come and enquire upon the view of any perſon ſlain, drowned, or otherwiſe by miſadventure, or ſuddenly dead, or wounded, or where houſes are broken, he ſhall forthwith go to the place where any be ſlain, drowned, or otherwiſe by miſadventure, or ſuddenly dead, or where any houſe is broken, and ſhall forthwith iſſue his precept to the Sheriff, Serjeant of a Corporation, or Conſtable of the County, or Corporation, directing him to ſummon at leaſt twelve of the moſt intelligent and reſpectable freeholders of the vicinage, or County or Corporation, to appear before him at the ſame place with all convenient ſpeed. *a*

Inqueſt to be taken by the Coroner, where any perſon is found wounded or dead, or where any houſe is broken.

VII. AND when the ſaid freeholders come to ſuch place, the Coroner, upon the oath of twelve of them, ſhall enquire in this manner, to wit: If they know where the perſon was ſlain, whether it were in any houſe, field, bed, tavern, or company, and who were there: Likewiſe it is to be enquired, who were guilty either of the act or of the force, and who were preſent, either men or women, and of what age ſoever they be, if they can ſpeak, or have any diſcretion. *a*

VIII. AND how many ſoever be found guilty by inquiſition in any of the manners aforeſaid, they ſhall be taken and delivered to the Sheriff or Serjeant, and ſhall be committed to the Jail, until the next Court to be holden within the County or Corporation, for the examination of ſuch offender, and the Coroner ſhall have the like power and authority to ſummon ſuch Court, and ſhall proceed in like manner as a Juſtice of the Peace before whom ſuch criminal might have been charged with ſuch offence, could or ought to do by Law. *a*

Perſons found guilty by the inquiſition, to be committed until the examining court.

Coroner to have the ſame power as a juſtice to ſummon ſuch court.

IX. IF any perſon is found ſlain, firſt it is to be enquired whether ſuch perſon were ſlain in the place where found, or not; and if ſuch perſon were brought and laid there, they ſhall do ſo much as they can to follow their ſteps that bro't the body thither, and aſcertain in what manner ſuch body was brought there. It ſhall be enquired alſo if the dead perſon were known, or elſe a ſtranger, and where ſuch perſon lay the night before. *a*

Duty of the jury when any perſon is found ſlain.

X. AND if any perſon be found guilty of the murder, the Coroner ſhall immediately go into his houſe, and ſhall enquire what eſtate both real and perſonal he hath, and after ſuch enquiry, the ſaid Coroner ſhall cauſe all the eſtate to be valued, and keep the ſame in his hands, until the perſon found guilty by the Inqueſt be taken or ſurrender himſelf. *a*

Coroner to keep in his hands eſtate of the murderer until he is taken.

XI. AND every Coroner upon any inquiſition found before him, whereby any perſon or perſons ſhall be indicted for murder or manſlaughter, or as acceſſary or acceſſaries to the ſame before the murder or manſlaughter committed, ſhall put in writing the effect of the evidence given to the Jury before him, being material; and the ſaid Coroner ſhall have authority by this Act to bind all ſuch by recognizance or obligation, as do declare any thing material to prove the ſaid murder or manſlaughter, offences or felonies, or to be acceſſary or acceſſaries to the ſame, as is aforeſaid, to appear at the Court to be holden within the County, City, or Borough, for the examination of ſuch offender or offenders, then and there to give evidence againſt the party ſo indicted, at the time of his trial; and ſhall certify as well the ſame evidence as ſuch bond or bonds in writing as he ſhall take, together with the inquiſition or indictment before him taken and found, at or before the time of his ſaid trial thereof to be had or made, to ſuch Court. *b*

To commit to writing the evidence given to the jury.

And to take the recognizances of the witneſſes to appear at the examining court.

(*a*) 1 *H.* 8, *ch.* 7. 4 *Edw.* 1, *ſtat.* 1, 2. (*b*) *Stat.* 1 & 2. *Ph. & Mary, ch.* 13, *ſec.* 5.

Where persons are drowned or suddenly dead.

XII. IN like manner it is to be enquired, respecting them that be drowned, or suddenly dead, what marks of violence appear on their bodies; whereupon they shall proceed in the form aforesaid. *a*

After inquest the dead body to be buried

XIII. AND immediately upon these things being enquired, the bodies of such persons being dead or slain, shall be buried. *a*

Person dangerously wounding another to be immediately arrested.

XIV. IF any person be dangerously wounded, the party accused shall be taken immediately, and kept until it be known perfectly whether he that is hurt shall recover or not; and if he die, the Defendant shall be kept; and if he recover health, he shall be attached by pledges according to the danger of the wound.

Wounds to be viewed and described.

XV. ALSO all wounds ought to be viewed, the length, breadth and deepness, and with what weapons, and in what part of the body the wound or hurt is, and how many be guilty, and how many wounds there be, and who gave the wound; all which things must be inrolled in the roll of the Coroners.

Accessaries to be apprehended and confined.

XVI. MOREOVER, if any be accused of any act done, as principal, they that be accused as accessary, shall be attached also, and safely kept in custody, until the principal be attainted or delivered.

And any suspected of murder.

XVII. IF any be suspected of the death of any man, he shall be taken and imprisoned, as before is said. *a*

Fine to be levied of murders, burglaries, &c.

XVIII. IN like manner hue shall be levied for all murders, burglaries, and for men slain, or in peril to be slain, and all shall follow the hue and steps, as near as can be, and he that doth not, shall be amerced at the discretion of a Jury. *a*

Coroner to issue his warrant to apprehend persons found guilty of murder by inquisition.

XIX. IF any be found guilty by inquisition taken in manner directed by this Act, and be not present, nor in custody, the Coroner shall straight issue his warrant to apprehend the person so found guilty, and the accessaries, if any; and the person accused, if apprehended, shall straightway be carried before some Justice of the County or Corporation where the offence was committed, to be dealt with as the Laws direct.

Penalty on a coroner for neglecting his duty.

XX. IF any Coroner be remiss, and make not inquisition upon the view of the body slain or murdered, or shall not endeavour to do his office upon any person dead by misadventure, or shall not certify the inquisition by him taken in the manner directed by this Act, he shall for every such offence, forfeit the sum of one hundred dollars, to be recovered by action of debt, in any Court of Record of this Commonwealth, one half thereof to the use of the Informer, the other half to the use of the Commonwealth.

Process when to be served by the coroner.

XXI. IN every case when by reason of a just exception to the Sheriff of any County, or Serjeant of a Corporation, any writ, of what nature soever the same may be, shall be delivered to the Coroner of such County or Corporation to execute, such Coroner shall do and perform all things by virtue of such writ, which the Sheriff or Serjeant himself, might or ought to have done, had there been no just exception against him according to the nature of the case; and in case of any neglect or breach of his duty, such Coroner shall be subject to the same pains, penalties, fines, forfeitures, and damages, and to the same proceedings, judgment and execution, as Sheriffs or Serjeants are subject to in like cases.

Coroners subject to the like penalties and fines as sheriffs.

No security to be taken on executions against them for neglect of duty.

XXII. AND upon every execution issued against a Coroner, upon any judgment against him obtained for breach or neglect of his duty, the Clerk shall endorse, that "no security is to be taken." *b*

Repealing clause.

XXIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

XXIV. This Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXII.

An Act concerning Escheators.†

[Passed the 30th of November, 1792.]

Escheators, how to be appointed.

I. BE *it enacted by the General Assembly*, That there shall be one Escheator commissioned in every County by the Governor, on recommendation from the Court of the same County, who shall execute his office in proper

(*a*) *Stat.* 4. *Edw.* 1, *stat.* 2. (*b*) 1764, *ch.* 6, *sec.* 2. † *See post, ch.* 180, *and acts of* 1797, *ch.* 6, 13.

person and not by deputy, and shall before the Court of the County be bound in the penalty of three thousand Dollars, with security to be approved by the same Court, duly to perform the duties of his said office. *a*

Not to act by deputy. To give bond and security.

II. THE said Escheator shall sit in convenient and open places, and shall take his Inquests of fit persons who shall be returned and impannelled by the Sheriff of the County, and shall suffer every person to give evidence openly, in their presence, to such Inquests, and the said Inquisition so taken, shall be by indentures to be made between the said Escheator and them of the Inquest, whereof the counter-part, sealed by the Escheator, shall remain in the possession of the first person that shall be sworn in the said Jury, and by him shall be returned to the Court of the same County, there to be recorded; and the other part, sealed by the Jurors, shall by the Escheator be sent into the Court of the District in which the land lieth, within one month after the Inquest taken. *a*

When and how they are to take their inquests.

III. AND if it be found for the Commonwealth, and there shall be any man that will make claim to the lands, he shall be heard without delay, on a traverse to the office, *monstrans de droit*, or petition of right; and the said lands or tenements shall be committed to him if he shew good evidence of his right and title to hold, until the right shall be found and discussed for the Commonwealth, or for the party, finding sufficient security to prosecute his suit with effect, and to render and pay to the Commonwealth the yearly value of the lands, if the right be discussed for the Commonwealth. *a*

Mode of proceeding where any man claims the land.

IV. NO lands nor tenements seized into the hands of this Commonwealth, upon such Inquest taken before Escheators, shall be in any wise granted, nor to farm let to any if it be not to him or them which claim as is aforesaid, till the same Inquests and verdicts be fully returned into the District Court, nor within six months after the same return, but shall entirely and continually remain in the hands of the Escheators, who shall answer to the Commonwealth the issues and profits yearly coming of the said lands and tenements, without doing waste or destruction. *a*

Lands seized by the Commonwealth not to be let to farm to any but the person claiming them.

V. IF no person within the six months before mentioned, make claim to the lands or tenements so seized, or claim being so made, if it be found and discussed for the Commonwealth, the Clerk of the District Court shall within one month thereafter, certify to the Escheator of the County where the lands lie, that no claim hath been made, or that being made it hath been discussed for the Commonwealth; which Escheator shall thereupon proceed to make sale of the lands for the benefit of the Commonwealth, to him who will give the most, after one month's public notice of the time and place of doing the same, and shall certify the purchaser and price to the Register of the Land-Office, who, on receiving a certificate that such price hath been paid into the treasury, shall have a grant executed to the purchaser, in such manner as by Law directed, in the case of unappropriated lands. *a*

When and how they shall be sold, if they are not claimed, or being claimed, the right be found in the Commonwealth.

VI. WHERE any person holds lands or tenements for term of years, or hath any rent, common, office, fee, or other profit apprender of any estate of freehold, or for years, or otherwise, out of such lands or tenements, which shall not be found in such office or inquisition, such person shall hold and enjoy his lease, interest, rent, common, office, fee, and profit apprender, in manner as if no such office or inquisition had been found, or as if such lease, interest, rent, common, office, or profit apprender had been found in such inquisition. *a*

Saving to persons their terms for years, rents, commons, &c. out of such lands, whether they be, or be not found in the inquisitions.

VII. ALSO, if one person or more be found heir by office or inquisition in one County, and another person be found heir to the same person in another County; or if any person be untruly found lunatic, ideot, or dead, the person grieved by such office or inquisition, may have his traverse or *monstrans de droit* to the same, without being driven to any petition of right, and proceed to trial therein, and have like remedy and restitution upon his title, found or adjudged for him therein as in other cases of traverse upon untrue inquisition found. *a*

Where a traverse or monstrans de droit may be had to an inquisition.

VIII. ALL and every Act and Acts, clauses and parts of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

(*a*) 1785, *ch.* 63, *sec.* 1, 2, 3, 4, 5.

CHAP. LXXXIII.

An Act prescribing the Mode of ascertaining the Taxable Property within the Commonwealth, and of Collecting the Public Revenue.†

[Passed the 15th of December, 1792.]

Commissioners of the revenue to be appointed.

I. EVERY County and Corporation Court within this Commonwealth shall annually, in the months of *October* or *September*, appoint discreet and reputable persons, to be Commissioners for the purposes herein after mentioned. *a*

Where there are several in a county, separate districts to be assigned to each.

II. IN those Counties where more Commissioners than one are directed to be appointed, the said Courts shall also distinctly lay off and ascertain the bounds of the District allotted to each Commissioner. *b*

Three to be appointed in certain counties.

Two in certain other counties.

And one in every other county, and in certain cities and towns.

III. IN each of the Counties of *Fauquier* and *Loudoun*, there shall be three Commissioners; in each of the Counties of *Culpeper*, *Accomack*, *Albemarle*, *Amherst*, *Augusta*, *Bedford*, *Berkeley*, *Botetourt*, *Brunswick*, *Buckingham*, *Campbell*, *Caroline*, *Charlotte*, *Chesterfield*, *Dinwiddie*, *Essex*, *Fairfax*, *Franklin*, *Frederick*, *Goochland*, *Greenbrier*, *Halifax*, *Hampshire*, *Hanover*, *Hardy*, *Harrison*, *Henrico*, *Isle of Wight*, *King & Queen*, *Louisa*, *Lunenburg*, *Mecklenburg*, *Monongalia*, *Montgomery*, *Nansemond*, *Norfolk*, *Northumberland*, *Ohio*, *Orange*, *Pendleton*, *Pittsylvania*, *Prince Edward*, *Prince William*, *Princess Anne*, *Rockbridge*, *Rockingham*, *Russel*, *Shenandoah*, *Southampton*, *Spotsylvania*, *Stafford*, *Surrey*, *Washington* and *Wythe*, there shall be appointed two Commissioners; and in each of the Counties not herein before mentioned, and in each of the Cities of *Williamsburg* and *Richmond*, and the Towns of *Petersburg*, *Alexandria*, *Fredericksburg* and *Winchester*, and Borough of *Norfolk*, there shall be appointed one Commissioner.

Who shall be incapable of holding the office.

IV. *PROVIDED*, That no member of either House of Assembly, persons holding any office in civil government receiving stated salaries, practising Attornies, or Physicians, Clerks of Courts, Inspectors, Ordinary keepers, Sheriffs, Surveyors or their Deputies, or persons that have been in the office of Sheriff, Deputy Sheriff, or Collector of public taxes in their County, shall be capable of acting or serving as Commissioner, unless it shall appear by sufficient testimony, other than the party's own oath, that such Sheriff or Collector hath completed his collection, fully paid the amount thereof into the Treasury, and finally closed every account relative thereto.

Clerks of the courts to certify to the commissioners their appointment.

Their oath.

V. THE Clerk of the Court shall certify to every Commissioner his appointment without delay, and thereupon each Commissioner shall repair to some acting Magistrate of the County, and take the following oath, or affirmation, to wit: *I*, A. B. *do swear (or solemnly, sincerely, and truly declare and affirm) that, as Commissioner of the Revenue for County, (City, Town, or Borough of* Norfolk, *as the case may be) I will to the best of my skill and judgment, diligently and faithfully execute the duties of the said office, without favor, affection, or partiality. And that I will do equal right and justice according to the best of my knowledge, in every case in which I shall act as Commissioner.* So help me GOD. A certificate of which oath, or affirmation, shall be given the Commissioner by the Magistrate administering it, and the Magistrate shall also certify the same to the next Court held for his County, to be recorded.

To receive and keep the books containing the accounts of the taxes on lands.

VI. EVERY Commissioner thus qualified, shall perform the following duties within his District: He shall in the first place apply to the preceding Commissioner, or other person, who shall have possession of it, for the book containing the owners' names, the number of acres or lots, the rate at which land is valued by the acre, the amount or total value of each tract or lot of land within his District, and the tax payable thereon; which book the said Commissioner shall keep so long as he shall continue in office, and on his death, resignation, or inability to act, shall be delivered to the succeeding Commissioner for the District. And every Commissioner shall in the said book note from time to time, all such alterations, alienations, divisions and additions, as may happen within his District, and shall also perform all the duties of the Commissioners of the land tax as herein prescribed.

To be furnished with lists of conveyances and partitions;

VII. THE Clerk of the General Court, and the Clerks of the several District Courts, on or before the first day of *May*, annually, are hereby directed to make return, and the Clerks of the County and Corporation Courts to deliver to the said Commissioners, a list of conveyances or partitions record-

† *Amended* 1794, *ch.* 21. (*a*) 1782, *ch.* 19. (*b*) 1786, *pa.* 8.

ed in their reſpective Courts within the preceding year, certifying the quantity and ſituation of the lands ſo conveyed; and the Regiſter of the Land-Office, on or before the firſt day of *April*, annually, ſhall in like manner tranſmit a liſt of all grants iſſued within the year preceding, to be by them valued at a price equal to other lands within their reſpective Diſtricts, ſimilar in ſoil and ſituation, and ſuch Commiſſioner ſhall give a credit to the perſon diſpoſing of the ſame, and charge the purchaſer or receiver with the tax payable thereon; and in like manner in caſes where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the ſaid Commiſſioners ſhall, and they are hereby required to value the ſame and charge the owner thereof with the tax in manner aforeſaid. *a*

and of patents.

To value the lands therein mentioned.

Their duty in caſe of alienations or partitions, and where lands have not been heretofore valued.

VIII. THE ſaid Commiſſioners ſhall ſeverally on the tenth day of *March*, annually, begin, and continue proceeding without delay through their reſpective Diſtricts, and call upon every perſon ſubject to taxation, or having property in his or her poſſeſſion or care, on which any tax is impoſed, for a written liſt thereof, which liſt being corrected, if neceſſary, and diſtinctly read over by the Commiſſioner to the perſon delivering the ſame, he or ſhe ſhall then make oath or affirmation, that ſuch liſt contains a juſt and true account of all perſons, and of every ſpecies of property in his or her poſſeſſion or care, within the Diſtrict, (land only excepted) ſubject to taxation on the ninth day of *March*, then next preceding, and that no contract, change or removal whatever of property had been made or entered into, or any other method deviſed, practiſed or uſed, in order to evade the payment of taxes; which oath or affirmation the Commiſſioner is hereby empowered and directed to adminiſter. *b*

To take the liſts of taxable property.

IX. AND whereas frequent abuſes have been practiſed by the owners of billiard tables by taking them down, ſo as to defeat the intention of this Act: *Be it enacted*, That the Commiſſioner ſhall return all ſuch which to his knowledge have been ſet up or uſed within his County at any time within the year, although the ſame may not be returned by the owner thereof, and ſuch tables ſhall at all times be liable for the tax. *b*

Rule reſpecting billiard tables.

X. EACH of the ſaid Commiſſioners ſhall after collecting the liſts of property from the inhabitants of his Diſtrict, in manner before mentioned, make four alphabetical general liſts therefrom, ſhewing in columns, according to the form hereto annexed, the date when each liſt was received, the perſons chargeable with the tax or taxes, diſtinguiſhing thoſe alſo ſubject only to County levies and poor rates, and the number or quantity of every ſpecies of property ſubject to tax, which liſts ſhall be kept and delivered in the following manner: Each Commiſſioner ſhall retain one of thoſe liſts in his own poſſeſſion, ſo long as he continues in office, afterwards to be delivered to his ſucceſſor, as in the caſe of the land-tax books, and one other of the liſts, together with the liſts taken from the individuals in his Diſtrict, ſhall be returned to the Clerk, who ſhall examine the ſame, and if found to be erroneous, either in addition or otherwiſe, correct the ſame together with the others, and then certify them to be true copies. The liſts in the Clerk's office ſhall ſerve for laying the County levy, and fixing the poor rates, and be ſubject to the inſpection or examination of every perſon who may chooſe to examine the ſame, provided they be not taken out of the Clerk's poſſeſſion; and copies may be had at the charge of the perſon or perſons deſiring the ſame. One other of the ſaid liſts after being certified by the Clerk, ſhall be delivered by the Commiſſioner to the High Sheriff of the County, as his guide to collect the taxes, and the remaining fourth liſt being alſo certified by the Clerk, ſhall be tranſmitted by the Commiſſioner to the Auditor's office, there to be minutely examined, and to be produced by the Auditor, and admitted as evidence by the General Court, for the amount of taxes charged the Sheriff. All which liſts it is hereby declared, to be the duty of the ſeveral Commiſſioners to have delivered to the ſeveral perſons or Officers, on or before the laſt day of *May*, annually. And the ſaid Commiſſioners ſhall take a receipt or acknowledgment in writing of the delivery of ſuch liſts. *b*

Commiſſioners to make four general alphabetical liſts of taxable property.

To whom ſuch copies ſhall be delivered.

And when.

XI. THE ſaid Commiſſioners ſhall alſo at the time of delivering liſts of taxable property herein before directed, deliver to the Clerk of his County, and at the Auditor's office, a fair and correct copy of the ſtate of the land tax, noting the alterations, alienations, diviſions, and additions that may have taken place in the preceding year, within his Diſtrict, to enable the Clerk to adjuſt

To deliver fair copies of the ſtate of the land tax to the clerk of the court, the ſheriff, and the Auditor.

(*a*) 1782, *Oct. ch.* 19, *ſec.* 3. (*b*) 1786, *pa.* 8.

his book of the land tax, and the Auditor to adjust the Equalizer's books; and the book containing the land tax, together with the annual returns of the several Commissioners lodged in the Clerk's office, shall be subject at all times to the inspection of every person, in like manner as the lists of taxable property; and the said Commissioners shall also deliver to the Sheriff an exact list of taxes due from all and every person or persons for land within his District, to enable the Sheriff to proceed in his collection.

Penalty on person refusing to serve as a commissioner.

XII. IN case any person appointed to the office of Commissioner under this Act, shall refuse to serve, not having a reasonable excuse in the opinion of the Court of the County, he shall for such refusal, forfeit and pay the sum of one hundred dollars.

None compellable to serve more than one year

XIII. NO Commissioner after having served one year, shall be again compelled to serve.

Vacancies, how to be supplied.

XIV. UPON the refusal to act, notice of resignation, death or inability of any Commissioner, it shall be the duty of the Court of such County, immediately to appoint a successor, and the Clerk is directed to call for all papers in the preceding Commissioner's hands, or his legal representatives; and in case they be lost, shall be furnished on application as herein before directed.

Allowances to the clerks of courts.

XV. THE Court of each County, City, and Corporation, shall make such allowance to the Clerk for his services under this Act, as they shall think reasonable, which shall be levied on the tithables within the same.

To the commissioners.

XVI. THE Commissioners of the revenue shall before the first day of *August* in every year, return to the Courts of their respective Counties or Corporations, a correct account of their services, and the said Courts are hereby respectively authorised and required to ascertain the time, in which the said services might have been reasonably performed, and shall certify the same to the Auditor of public accounts in manner following:

THIS day produced an account of his services as a Commissioner of the revenue, and the Court have considered that days were requisite for the said Commissioner to perform the services aforesaid:"

For entries of alienations or alterations.

Allowances to commissioners not to exceed the taxes of the county.

And in lieu of the allowance heretofore made, the said Commissioners shall be paid by the Treasurer of this Commonwealth, on warrant from the Auditor of public accounts, one dollar per day, agreeably to the time so ascertained by the Court. And for every entry of alienation or alteration, they may demand and receive forty-two cents, and no more. *Provided always*, that no Commissioner or Commissioners, shall be allowed a sum or sums exceeding the revenue tax, of his or their respective Counties or Corporations. *a*

May be removed from office by the court of the county.

XVII. ON complaint made to any County or Corporation Court, that a Commissioner neglects or abuses the trust hereby vested in him, it shall be lawful for such Court to order a summons to issue, requiring the said Commissioner to appear before them at their next succeeding Court, which being served on him, or a copy thereof left at his usual place of abode, ten days at least before the return day thereof, the Court may proceed to hear and determine the complaint, and may remove him from office if it appear to them that the said complaint is well founded. *b*

Penalty for delivering false lists of property, or refusing to give lists on oath.

How the lists are to be taken and the property taxed in such cases.

XVIII. IF any person shall give or deliver to a Commissioner, a false or fraudulent list of persons or property, subject to taxation, or shall refuse to give a list on oath or affirmation, when required by the Commissioner, the person or persons so refusing shall be liable to a fine of fifteen dollars, and the Commissioner shall proceed to list such person's property, agreeable to the best information he can procure; and all such property so ascertained, shall be moreover subject to a triple tax, to be collected and distrained for by the Sheriff, as in other cases; and in the case of an imperfect, false, or fraudulent list, the person giving the same, shall be subject to pay a fine of fifteen dollars, and the property subject to a triple tax; which fines and triple taxes shall be recovered in the County Court by the following mode of proceeding, and applied as herein after directed. *b*

Mode of proceeding against the delinquents.

XIX. THE Commissioner shall give information thereof personally, or if unable to attend, in writing, under his hand, to the next Court held for his County, which Court shall forthwith direct the Clerk to issue a summons, requiring the party to appear at the next Court to be held for the County, to shew cause, if any he can, why he should not be fined, and triply taxed for giving an imperfect or fraudulent list of taxables; and the person or persons, upon being served therewith by the Sheriff, and appearing, shall immediately plead to issue,

(*a*) 1791, *ch.* 8, *sec.* 1. (*b*) 1786, *pa.* 8.

and the matter thereof shall be enquired into by a Jury, or the Court, at the Defendant's option, and on conviction, or the person failing to appear upon being summoned, the fine and triple tax shall be established by judgment of the Court, who, unless good cause shewn at the next succeeding Court, for such failure, shall award execution for the fine and costs, and certify the amount of the tax to the Sheriff, for collection, and to the Auditor's office; the amount of which fine, after deducting thereout such allowance as the Court may think reasonable to make the Commissioner for his extraordinary trouble on the occasion, shall be applied towards lessening the County levy; and the triple tax shall be charged to the Sheriff, and accounted for in like manner as the other taxes. *a*

Copy of the proceedings to be set up at the court-house door.

XX. THE Clerk of the Court shall set up at the door of his Court-house, a copy of the proceedings in such cases, on the succeeding Court day. *a*

Every person knowing any false list to be delivered, to give information to the commissioner or the court.

XXI. AND for preventing frauds or impositions upon Commissioners: *Be it further enacted*, That every person or persons having knowledge of any incorrect, false, or fraudulent list being given a Commissioner, shall give information thereof, either to a Commissioner, or to the County Court, in like manner as the Commissioner is directed, and thereupon the same mode of proceeding shall be had, as if the Commissioner gave information; and the person informing shall be entitled to, and receive one half of the fine imposed on the offender or offenders, to his own use, and the other half to be applied towards lessening the County levy. *a*

Copy of the proceedings of the court under this act to be transmitted to the Governor.
And to be admitted as evidence on the Auditor's motions for fines.

XXII. THE Clerk of every County Court shall transmit to the Governor, a fair and attested copy of all proceedings had at his Court, in pursuance of this Act, immediately after every Court, noting therein the names of the sitting Magistrates; which attested copy shall be admitted as proof on any motion in the General Court, by the Auditor, for the recovery of any fine imposed by this Act. *a*

Penalty on the clerks, justices, or commissioners for neglect of duty.

XXIII. THE Clerk, Justices, or Commissioners, or their legal representatives, failing to perform any one of the duties imposed on them respectively, by this Act, shall be subject to a fine of one hundred and fifty dollars, to be recovered by motion on any day, at either of the Sessions in the General Court, at the instance of the Auditor; notice of such motion being previously given in the same manner as to delinquent Sheriffs. *a*

How the lists are to be taken when the persons chargeable are absent when the commissioners call to receive them.

XXIV. IN case any person should be absent from his or her place of residence at the time the Commissioner calls to receive the list, and it should appear to the Commissioner, that such absence was not intentional, or done with a view of avoiding the delivery of such list, it shall be lawful for the Commissioner to require the attendance of such absent person, with his or her list, at any time and place within the said District, provided such person tenders his or her list to the Commissioner, and makes oath to the justness of it, on or before the twenty-fifth day of *May* annually; and in case of failure, the Commissioner shall proceed in like manner as is before directed, in cases of refusal to give in lists; and the Court shall determine upon the circumstances of the case, whether to inflict or remit the fine and triple taxes. *a*

Lists of insolvents to be entered in the commissioners' books.
And the sheriff credited therefor.
Taxes due from persons removing from one county to another, how to be collected.

XXV. A LIST of all the insolvents returned by the Sheriff to the Court, shall be transmitted by the Clerk to the Commissioners of the Revenue, to be entered in their book of taxes for that year; and no Sheriff shall have credit for such insolvents in his account with the public, unless certified by the said Commissioners to have been allowed by the Court; and the said Commissioner shall moreover transmit with the said lists of insolvents, an account of the tax of any person who may have removed out of the County, together with the name of the County, to which they have removed; which account the Auditor is hereby directed to transmit to the Commissioners of the Revenue of the County to which they have removed, to be charged on their books, and collected by the Sheriff.

Account of additional taxes and fines to be sent to the Auditor.
Commissioners to state a general account of taxes with the sheriff.

An account of all fines or additional taxes imposed by virtue of this Act, shall be by the said Commissioners, transmitted to the Auditor's office, before the first of *August*, annually. And the said Commissioners shall state in their book of taxes, a general account with the Sheriff, for all taxes, fines and additional taxes in their County, crediting him for all insolvents, and also for all payments made by the said Sheriff to the public; receipts for which shall be by the said Sheriff transmitted to the said Commissioners within twenty days, after obtaining the same, a copy of which account shall be by the said Commissioners transmitted to the Auditor's office, before the first day of *May*, annually. *a*

(a) 1786, *pa.* 9, 10.

To return to the courts lists of their own property.

XXVI. THE Commissioners shall severally return on oath to their respective Courts, a list of all their own taxable property, and shall enter the same in the several lists to be by them returned to the different persons and public officers, and on failing to comply herein, shall be liable to be proceeded against, in the same manner, and subject to the same penalties as in case of any other neglect. *a*

Form of the book containing the taxes on lands.

Form of keeping the book containing the land tax by the Commissioner.

List of the land tax within the District of A. B. Commissioner, in the County of C.

Persons names owning land.	Number of lots.	Yearly rent of lots.	Amount of tax on lots at—in	Quantity of land.	Rate of land per acre.	Total amount of value of land exclusive of lots.	Amount of tax on lands at—per	Total amount of tax on lots and lands.
Sum total.								

Form of the commissioner's returns of taxable property.

Form of return of taxable property to be made by the Commissioners.

List of taxable property within the District of A. B. Commissioner, in the County of C. for the year 18---

	Date of receiving lists from individuals.	Persons names chargeable with the tax.	Number of white males above sixteen years.	Blacks above twelve years old.	Blacks above sixteen years old.	Horses, Mares, Colts, and Mules.	Ordinary licence.	Billiard Tables.	Stud Horses.	Rates of covering per season.	Carriage wheels. Coaches, Chariots, and Post Chaises.	Other riding four wheel Carriages.	Riding Carriages with two wheels.
Tot. amt.													

Taxes, when they shall become due.

When distrainable.

When to be paid into the Treasury.

XXVII. THE taxes on lands, slaves, and other property shall hereafter become due on the thirty-first day of *December* in every year, may be distrained for on the first day of *May* next succeeding, and shall be collected, accounted for, and paid in specie only, into the Public Treasury, by the Sheriff of the County, or other Collector to be appointed by virtue of this Act, on or before the first day of *October*, next thereafter, under the penalties herein after mentioned. *b*

In what cases they may be distrained for before the time prescribed.

XXVIII. WHEN any Sheriff or Collector of taxes shall have good cause to suspect, that any person means to remove his property without the limits of his jurisdiction, so that in his opinion there may be a probability of the taxes with which such person is chargeable, being lost by the public, it shall and may be lawful for such Sheriff or Collector, on making oath thereto before a Magistrate, and receiving a certificate of such oath, to levy distress on the goods and chattels of such person, for the amount of taxes with which he or she is then chargeable, any time before the first day of *May*; any thing in this Act to the contrary notwithstanding.

How to be collected when the sheriff dies. Not to be distrained for after two years from the time they became due.

XXIX. IT shall and may be lawful for all deputy-Sheriffs to collect and make distress for any taxes which may be due at the time of the death of their High Sheriffs, and shall be accountable for the same, in like manner as if the Sheriff had lived. And no Sheriff or Collector shall be allowed to distrain for any taxes, after two years from the time the taxes became due, except Sheriffs appointed prior to the year one thousand seven hundred and ninety-two; who

(*a*) 1786, *pa.* 10. (*b*) 1791, *ch.* 1.

shall have the power of distraining for the taxes now due, for the term of eighteen months from the passing of this Act: *Provided nevertheless*, that no Sheriff or Collector shall be allowed to distrain for such arrearages, until he shall have entered into bond, with sufficient security, to be approved of by such Court, to pay and satisfy all such damages and costs as may be recovered against him, for any abuse of the power hereby vested in him. *a*

Exception with a proviso.

XXX. IT shall be lawful for the County Courts within this Commonwealth, to qualify any person or persons, for the purpose of completing the collection of taxes in any County, where the Sheriff and his Deputy shall die, before such collection shall be completed: and the person or persons so appointed, after having given bond and security to the Executors or Administrators of the said Sheriff, to be approved of by the Court for the faithful performance of the duties of the office, shall have the same power in all respects, for collecting such arrears, as the High Sheriff would have had. But the acting Executors or Administrators of such High Sheriff, if any such there be, at the time of such appointment, shall be summoned by order of the said Court, to shew cause, if any they can, against the person whom the said Court shall nominate. *b*

How to be collected where the Sheriff and his deputies die.

XXXI. THE person or persons so appointed, shall in all respects be subject to the same penalties, for any neglect of duty, or failing to account for and pay to the person or persons authorised to receive the money by him or them so collected, and may be proceeded against by such Executors or Administrators, in the same manner as Deputy-Sheriffs are liable to, and may be proceeded against by their principals. *b*

XXXII. IN case payment be not made by any person chargeable with any tax, levy, fine, or forfeiture, or amercement, the Sheriff or Collector shall have power to distrain the slaves, goods or chattels which shall be found upon the lands, or in possession of the person so indebted or failing, notwithstanding such slaves, goods or chattels, shall be comprised in any deed or mortgage. *c*

What may be distrained for taxes, levies, &c.

XXXIII. IF the owner thereof shall not pay such tax, levy, fine, forfeiture, or amercement, within five days after such distress, such Sheriff or Collector shall and may lawfully sell the same, or so much thereof as shall be sufficient to discharge the said taxes, and the charges of distress and sale, for ready money; which sale shall be good and effectual in Law, against all persons whatsoever. *c*

When goods distrained may be sold.

XXXIV. THE Sheriff or Collector of the taxes within this Commonwealth, shall at the time he returns a list of other Insolvents, return a list of the lands within his County, or Corporation, where he cannot find effects within the same, belonging to the Owner or Tenant thereof, sufficient to pay and satisfy the tax; and if the Court shall be satisfied of the truth thereof, they shall admit the Sheriff or Collector to make oath thereto, and direct the same to be certified to the Auditor of public accounts, together with the names of the Owners of each tract of land, and the place of his or her abode, where the Court can obtain such information. The Auditor shall credit the same in account for the land tax, with such Sheriff or Collector. And where it shall appear to the Auditor from the certificates of the County Courts, or where he shall be satisfied from any other information, that any person so chargeable with any of the said taxes resides, or hath any slaves or personal property in some other County of this Commonwealth, than that in which such land may lie, he shall certify the amount of the land tax with which such person is or shall be chargeable, to the Sheriff or Collector of the County in which such person may reside, or have slaves or personal property, (as the case may be) and shall debit such Sheriff or Collector with the amount of the taxes so transmitted to him, who may make distress for the same, and shall be accountable therefor, in like manner as for other taxes of his County. A list of these Insolvents, with the amount of the tax due from them respectively, shall be furnished by the Clerk of the Court to the Collector of the tax for the succeeding year, and he shall transmit a copy thereof to the Auditor of public accounts, who shall debit the Sheriff or Collector therewith; and such Sheriff or Collector shall distrain and account for the same, in like manner as for other taxes, and in case the said taxes cannot be collected the succeeding year, the like return upon oath shall be made, as is herein before prescribed; and thereupon the Treasurer shall cause to be inserted in the *Virginia* Gazette, for three weeks successively, the names of such delin-

How the taxes on lands are to be collected when the sheriff cannot find effects on the same to pay the tax thereon.

(*a*) 1789, *ch.* 3. (*b*) 1789, *ch.* 48, *sec.* 1, 2. (*c*) *Oct.* 1782, *ch.* 8, *sec.* 4.

quents, with the quantity of land, the ſituation thereof, and the taxes due thereon. *a*

When lands ſhall be forfeited for the non-payment of taxes. How a title thereto may be acquired.

XXXV. IN caſe the tax on any tract of land within this Commonwealth, ſhall not be paid for the ſpace of three years, the right to ſuch lands ſhall be loſt, forfeited and veſted in the Commonwealth; and it ſhall be lawful for any perſon to acquire a title to any land ſo forfeited, in the manner preſcribed by an act, intituled, "*An Act for reducing into one, the ſeveral Acts concerning the Land-Office; aſcertaining the terms and manner of granting waſte and unappropriated lands, for ſettling the titles and bounds of lands; directing the mode of proceſſioning, and preſcribing the duty of Surveyors.*" *a*

Saving the rights of infants, femes covert, or lunatics.

XXXVI. *PROVIDED always*, That nothing herein contained ſhall affect the right of infants, *femes covert*, or perſons of unſound mind, who ſhall be allowed three years to ſave the ſame from forfeiture, after ſuch diſability be removed. *a*

Tenant paying the taxes may deduct it out of the rent, unleſs he is bound to pay it.

XXXVII. AND where any Tenant ſhall be diſtrained for the taxes due from the proprietor of the land, he ſhall have credit for the ſame againſt ſuch proprietor out of the rents he may owe him; but this Act ſhall not be conſtrued to deſtroy or impair any contract, by which the Tenant may be bound to pay the ſaid land tax, or any part thereof. *a*

When the clerks of courts are to account for and pay taxes collected by them.

XXXVIII. THE Clerks of the ſeveral Courts within this Commonwealth, ſhall, reſpectively, on or before the firſt day of *April*, and firſt day of *October* in every year, account for on oath, and pay into the public treaſury, all the monies which by Law they ſhall be authoriſed to receive on public account, after a deduction of five *per centum* therefrom, as a commiſſion. And in caſe of fraud herein by any Clerk, he ſhall on conviction thereof be deprived of his office. *a*

Repealing clauſe.

XXIX. ALL and every Act and Acts, clauſes and parts of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Proviſo.

Provided always, that nothing herein contained, ſhall prevent the collection and recovery of any arrearages of taxes due before the commencement of this Act, but ſuch arrearages ſhall be collected, paid, and diſtrained for, and recovery had againſt all delinquents, and the damages on failure of payment thereof, ſhall be the ſame as if this Act had not been made.

Commencement of this Act.

XL. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. LXXXIV.

An Act to reduce into one, the ſeveral Acts concerning the Recovery of Debts due to the Public, and the Sale of Lands for Judgments on behalf of the Commonwealth, againſt Public Officers.

[Paſſed the 30th of November, 1792.]

Mode of proceeding againſt perſons miſapplying money received from the Treaſury for public uſe.

I. BE *it enacted by the General Aſſembly*, That when any perſon who hath received, or ſhall receive public money from the Treaſurer for public uſe, hath not applied, or ſhall not apply the ſaid money accordingly, or hath neglected, or ſhall neglect to account for and repay ſo much thereof as ſhall remain unapplied, upon a motion on behalf of the Commonwealth, made to any Court of Record, notice thereof in writing having been given ten days or more to the delinquent, with a ſtate of the matter alledged againſt him, either by delivering copies of ſuch notice and allegation to him, or leaving them at the place of his uſual abode, the ſaid Court may give judgment and award execution againſt him and his ſureties, for ſo much as a Jury, to be impannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, for trial of an iſſue, if he appear and make it up, or for enquiry of damages, if he appear not, or appearing, refuſe to make up ſuch iſſue, ſhall find to be due from him, on any ſuch account as aforeſaid, with damages to be aſſeſſed by the Jury, and coſts. *b*

Againſt perſons contracting to ſupply the army, &c. for breach of contract.

II. WHEN the Attorney proſecuting on behalf of the Commonwealth, ſhall commence an action for breach of a contract, which hath been, or ſhall be entered into with government, or with an agent thereof, to ſupply the army or navy with proviſion or other articles, at the emanation of the writ, he ſhall file a declaration, with an aſſignment of the breaches, which with the writ ſhall be delivered to the officer, to whom that is directed, and ſerved upon the Defendant fifteen days or more before the return day; and on ſuch return day, or on the return day of the ſubſequent proceſs, in caſe the preceding be not legally

(*a*) 1790, *ch.* 5, *ſec.* 1, 2, 3, 4, 5, 6, 7. (*b*) *Taken from* 1786, *ch.* 61.

ſerved, if the Defendant appear and make up an iſſue, or if he appear not, or appearing, refuſe to make up ſuch iſſue, a Jury ſhall be impannelled inſtantly, unleſs good cauſe be ſhewn for deferring it, to try the iſſue, or enquire of damages. And in like caſes, the agents or contractors of the United States of *America*, may, by the like remedy, on behalf and in the name of the ſaid States, recover money due to them.

The ſame remedy extended to the United States.

III. AND whereas divers perſons have, and hereafter may enter into contracts with the agents or contractors, for victualling and cloathing the army and navy, and have or may fail, or refuſe to comply therewith: *Be it further enacted*, That upon any ſuit being brought by any victualler, agent, or contractor, againſt any perſon or perſons ſo failing or refuſing, the proceedings therein ſhall be the ſame, and the Plaintiff ſhall have the ſame remedy and redreſs, as is herein before directed, in ſuits which may be brought on behalf of the Commonwealth. *a*

And to public contractors againſt perſons contracting with them.

IV. IT ſhall and may be lawful for the General Court to give judgment with coſts, at the motion of the Auditor, on ten days previous notice, againſt any perſon or perſons indebted to the Commonwealth, by bond or other ſpecialty, whether the ſame be taken in the name of the Governor or Treaſurer, or any other perſon acting in a public character, for or on behalf of the Commonwealth, and alſo to give judgment for all bills of exchange and notes, and for the penalty of all bonds entered into by any perſon or perſons, conditioned for the rendering accounts, or other duties. *b*

Mode of proceeding againſt perſons indebted to the public, by bond, bill, note, &c.

V. WHERE any perſon or perſons have been, are, or may hereafter be indebted to the Commonwealth, either in ſpecie or other articles, collected or otherwiſe received, for or on behalf of the Commonwealth, and ſuch perſon or perſons, on a ſettlement with the Auditor, have obtained a *quietus*, and where judgment hath been, or may be obtained in favor of the Commonwealth, and the amount thereof adjuſted and diſcharged, either before or after the iſſuing of the execution, whereby a *quietus* may have been or ſhall hereafter be obtained, by the party or parties, and it ſhall afterwards appear that an error or miſtake had been committed to the prejudice of the Commonwealth, in the ſettlement of ſuch account, judgment, or execution, in all or any of theſe caſes, it ſhall and may be lawful for the General Court, to give judgment on motion, with ten days previous notice, for the amount of ſuch error or miſtake, without intereſt or damages thereupon, the ſame being proved to the ſatisfaction of the Court. *b*

Againſt a public debtor where an error in his favour is diſcovered in any adjuſted account.

VI. AND when it ſhall appear after ſettlement, that by error or miſtake any perſon ſhall or may have paid more to the Commonwealth than was really due, ſuch perſon ſhall have the ſame remedy by motion with notice, againſt the Auditor, as is by this Act given to the Commonwealth. *b*

The like remedy to him if he has overpaid.

VII. IF any Sheriff or Collector of the public taxes, ſhall fail to account for and pay into the Public Treaſury, the taxes by him received, in manner and at the time preſcribed by Law, every ſuch delinquent Sheriff or Collector, ſhall be liable to a judgment againſt him on motion, to be made by the Auditor, or other perſon appointed for that purpoſe, at the *November* General Court, or any ſubſequent Court after ſuch failure, for the amount of the taxes due, and five *per centum* damages, together with an intereſt of five *per centum per annum*, upon the whole amount, until paid, for the uſe of the Commonwealth, and thereupon execution ſhall iſſue; provided the party has ten days previous notice of the day on which ſuch motion is to be made. *c*

Againſt ſheriffs who fail to account for public taxes.

VIII. NO petition or petitions ſhall in future be received from any Sheriff or Collector of the Public Revenue, or their ſecurity or ſecurities, or from any perſon or perſons directly or indirectly in their behalf, unleſs ſuch Sheriff or Collector ſhall previous to ſuch application, advertiſe at the door of his Court-houſe, on one Court day at leaſt, a liſt of the perſons in arrears for taxes, in his County, together with the balances due from ſuch perſons reſpectively, making oath to the ſame before the Court of the County in which he or they reſpectively reſide, which oath ſhall be committed to record and liſt filed in the Clerk's office; and the ſaid Sheriff or Collector ſhall produce an atteſted copy of ſuch advertiſement, together with copies of the liſt and certificate aforeſaid, ſigned by the Clerk of his or their reſpective County Courts.

Regulation reſpecting petitions from delinquent ſheriffs.

IX. LANDS and tenements ſhall and may, by virtue of writs of *fieri facias*, be taken and ſold in ſatisfaction of all judgments which have been obtained af-

Lands of public collectors and their ſecuri ties

(*a*) *May*, 1777, *ch.* 10, *ſec.* 5. (*b*) *From* 1783. *ch.* 19. (*c*) *Oct.* 1782, *ch.* 8. *ſec.* 4.

may be sold to discharge the commonwealth's judgments against them in certain cases.

Proviso in favour of securities in certain cases.

ter the seventh day of *January*, one thousand seven hundred and eighty-eight, or may be obtained hereafter, on behalf of the Commonwealth, against any Sheriff, Coroner, or other public Collector, or against his or their security or securities: *Provided*, that the same shall not extend to any such security or securities, who shall have become so before the said seventh day of *January*, one thousand seven hundred and eighty-eight. *a*

Land bound from the date of the judgment.

X. EVERY judgment obtained against any Sheriff, Coroner, or other public Collector, shall bind the property of the lands and tenements of such public debtor, from the date thereof. *a*

Notice of the time and place of sale, how to be given.

XI. WHEN the goods and chattels taken in execution to satisfy a judgment of the Commonwealth by virtue of a *fieri facias*, shall not, in the opinion of the Officer levying the same, be sufficient to satisfy the debt with damages and costs, the Sheriff or other Officer shall, at the same time, give public notice at the Churches and Meeting-houses, if any there be, and Court-house of his County at the next Court day, and shall moreover give notice to the owner, if he be in the County, or otherwise to his agent, if any such be known, at some time appointed in the notice, not less than ninety, nor more than ninety-six days from the time of levying the execution, that the said lands and tenements will be exposed to sale by auction on the premises, or at such other place in the County as the owner shall by writing under his hand delivered to the Officer, direct. *a*

Debtor having several parcels of land may direct which shall be sold.

XII. IF the public debtor against whom a judgment hath been entered subsequent to the said seventh day of *January*, one thousand seven hundred and eighty-eight, or shall be hereafter entered, have several parcels of land which lie in one and the same County, he or his agent may by writing under his hand at any time before the day of sale, require the Sheriff or Officer to whom a writ of *fieri facias* upon the judgment shall be directed, to make the debt or damages and costs of such of the said parcels of land as the owner or his agent shall think proper; and if the parcels lie in different Counties, the Clerk shall and may at the like request in writing, direct the *fieri facias* to the Sheriff or Officer of any County which the party or his agent, making oath or solemn affirmation that he hath lands there, shall particularly mention, at any time before the writ shall be delivered to the Officer. And if the debt, damages, and costs be made of any other parcel of land, or of lands lying in any other County than that mentioned in such written requisition, the sale of such other parcel of the land in such other County shall be void. *a* †

Sale how to be made.

XIII. IF the owner of the land before or at the day of the sale, shall not make payment of the debt due to the Public, the Sheriff or Officer shall proceed to sell the said lands and tenements, or such estate and interest as the party convict shall have therein, or so much thereof as will be sufficient, laid off in one entire parcel, if it may be done, in such place and manner as he or his agent, if he think proper, shall direct, for ready money, or other property, as the demand may be, and the costs: But if the estate cannot be sold for three-fourths of its value, in the opinion of the valuers of the County, or in the opinion of such other person as may be by Law directed, he shall sell the same upon three months credit, taking bond of the purchasers, with sufficient surety or sureties for the payment, to the Chief Magistrate of this Commonwealth for the time being. *a*

Where the estate cannot be sold for three-fourths of its value, the officer may sell upon three months credit.

Proceedings on the bonds taken in pursuance of this act.

XIV. EVERY bond thus taken, shall mention on what occasion the same was taken, and shall by the Sheriff or Officer be immediately returned to the Clerk's office from whence it issued, there safely to be kept, and when due, execution thereon may be awarded in the same manner, and on the same conditions that executions are now awarded on replevy bonds, and shall in like manner be indorsed by the Clerk, "that no security is to be taken." *a*

Conveyances to be made by the officer to the purchaser at his costs.

XV. IN all sales of lands by virtue of an execution, the Sheriff or other Officer shall convey the same to the purchaser at his costs, by deed in writing, sealed, and recorded as the Laws direct for other conveyances of land: which deed shall recite the execution, purchase, and consideration, and shall be effectual for passing to the purchaser all the estate and interest which the debtor had, and might lawfully part with in the lands. *Provided nevertheless*, that if any Sheriff or other Officer who may have made sale of lands by virtue of any execution to him directed, on the part of the Commonwealth should die, or remove out of the State, before deeds made in conformity to such sale or sales,

(*a*) 1789, *ch.* 40, *sec.* 1, 2, 3, 4. *See sec.* 17, 2, 3. † *See acts of* '98, *pa.* 22, *sec.* 5—*this section altered.*

then it shall and may be lawful for the next succeeding Sheriff or other Officer, to convey the same to the purchaser or purchasers thereof, in as full and ample manner as his predecessor in office might or should have done.

Proceedings against the securities of public collectors.

XVI. IF the lands and tenements, goods and chattels, of any Sheriff, Coroner, or other public Collector, are insufficient to satisfy the debt, damages, and costs, due to the Public, judgment shall be obtained against his security or securities in the same summary way that judgment may by Law be obtained against his or their principal, and the lands and tenements, goods and chattels of such security or securities, except as before excepted, shall be taken in execution to satisfy the balance of such debt, damages, and costs, in the same manner as the lands and tenements, goods and chattels of his or their principal, may be taken and sold agreeable to this Act. *a*

Clerks to insert "lands and tenements" in executions against public collectors.

XVII. IN every writ of *fieri facias* upon judgments which have been obtained subsequent to the said seventh day of *January*, one thousand seven hundred and eighty-eight, or hereafter to be obtained by the Commonwealth, against any Sheriff, Coroner, or other public Collector, or the securities of them, or either of them, after the words, "We command you that of the" the Clerk from whose office such writ shall issue, shall insert the words "lands and tenements," and conform the subsequent part of such writ thereto. *b* †

Executive may direct property of public collectors under execution heretofore served, to be removed to an adjacent county.

XVIII. WHERE the property of any Sheriff, Coroner, or other public Collector, or their securities, has been taken in execution to satisfy a judgment obtained by the Commonwealth, and the same was not sold for want of buyers, and return thereon hath been made to that effect, or where the property of any Sheriff, Coroner, or other Public Collector, or their securities, have been exposed to sale by virtue of any writ of *venditioni exponas*, to satisfy a judgment obtained by the Commonwealth, and could not be sold for want of buyers, and return hath been made to that effect, in either of the above cases, it shall and may be lawful for the Executive, and they are hereby authorised and required to direct the officer, to whom any subsequent process in either of the above cases ought to issue, provided such property cannot be sold agreeable to the directions of such subsequent process, to cause such property to be removed to such place in any adjacent County, as the Executive may direct, and there to be sold for money or government securities, on such terms, and in such proportions as they shall judge expedient: *Provided*, that if such property will not sell for three-fourths of its value, in the judgment of the valuers of the County, or in the judgment of such other person as may be by Law directed, where the sale shall be made, the Sheriff or other Officer shall sell the same on three months credit, and shall take bonds in the same manner, and the like proceedings shall be had thereon, as is herein before directed, in cases of bonds taken on the sale of lands and tenements sold by virtue of this Act. *c*

Proviso.

Executions against sheriffs to be served by the high sheriffs.

XIX. IN every case where any writ of *fieri facias*, or *venditioni exponas* issues against the estate of a Sheriff on behalf of the Commonwealth, if by Law the same ought to be directed to a Sheriff, such writ or writs shall be executed by the High Sheriff. *d*

Executive may direct the property of public collector under execution, to be removed to an adjacent county.

XX. IN like manner where any writ of *fieri facias*, or *venditioni exponas* shall hereafter issue at the instance of the Commonwealth, against the estate of any Sheriff, Coroner, or other Public Collector, or their securities, and the goods and chattels of such debtor cannot be sold for want of buyers, the Executive shall direct the property to be removed and sold as above directed, in cases of such Sheriffs, Coroners, Public Collectors, and securities, whose property has not been sold for want of buyers. *d*

To be informed when their interposition is necessary.

XXI. IT shall be the duty of the Auditor forthwith to acquaint the Executive when their interposition is, or hereafter may become necessary, to the carrying this Act into effect. *d*

And of process fraudulently served.

XXII. THE Auditor, immediately on the return of any process which he shall suspect was fraudulently executed, shall give notice thereof to the Executive, whose duty it shall be to direct the Attorney of the Commonwealth for such District, County, or Corporation, to file an information thereupon, in which like proceedings shall be had as in other cases of information; and if it shall appear that such sale was fraudulently made, the property of any thing thus

Fraudulent sales under such process to be void.

(*a*) 1787, *ch.* 40, *sec.* 6. (*b*) *Ib. sec.* 7. *see last pa. sec.* 9. † *This clause seems only to contain a direction to the clerk as to the form of executions under the 9th sec. and does not extend to securities, who became so before the 7th Jan.* 1788. (*c*) 1787, *ch.* 40, *sec.* 8. (*d*) 1787, *ch.* 40, *sec.* 9, 10.

[illegible] claims or demands whatsoever, against the public, arising under any Law or Resolution of the General Assembly; and to grant to every public claimant, authorized by Law to demand the same, a warrant on the Treasurer, for the sum due, signed with his own hand and name, and attested in the hand and name of one of his Clerks, making due entry and register of all his daily proceedings in books for that purpose, and carefully arranging, filing and preserving in his office, all accounts, receipts, vouchers, and papers, touching the same. The Auditor on the last day of *September* in every year, shall transfer the balances to a new account, to be annually opened by him on the first day of *October*. There shall also be an account stated against the Treasurer of the Commonwealth *a*

To proceed against public debtors.

III. IT shall be the duty of the Auditor, to call upon and proceed against all public debtors, for the balances due to the Public. *b*

In what manner.

IV. IT shall and may be lawful for the Auditor on behalf of the Commonwealth, to move for judgments on any day during the sitting of the General Court, against any person or persons indebted to the Public, and against any person or persons indebted to the Public by duty bonds, in the General Court, or County Court of Henrico, on giving ten days previous notice thereof, and thereupon to issue executions, and send the same to the proper Officer; the charges of giving which notice, being first paid by the Public, shall be recovered of the person against whom such execution issued, in the same Court, and in the same manner, as debts due to the Public are allowed to be recovered; and on such executions, the Clerk shall endorse "No security to be taken." *c*

To give bond and security for the faithful discharge of his office.

V. ANY person hereafter appointed Auditor, shall give bond with such security as shall be approved by the Governor, with the advice of Council, in the sum of thirty thousand dollars, payable to the said Governor, or his successors, in trust, for the use of the Commonwealth, conditioned for the faithful discharge of the duties of his office; which bond shall be recorded in the General Court. *d*

Persons aggrieved by his disallowing or abating any claim, how redressed.

VI. WHERE the Auditor acting according to his direction† and judgment, shall disallow, or abate any article of demand against the Commonwealth, and any person shall think himself aggrieved thereby, he shall be at liberty to petition the High Court of Chancery, or the District Court, holden at the City of *Richmond*, according to the nature of his case, for redress, and such Court shall proceed to do right thereon; and a like petition shall be allowed in all other cases, to any other person who is entitled to demand against the Commonwealth, any right in Law or Equity. *e*

The chief clerk to act in case of sickness of the auditor.

VII. THE chief Clerk of the Auditor, shall, in case of the sickness of the Auditor, perform the duties of his office. *f*

Treasurer, his continuance in office.

VIII. THE public Treasurer may continue in office without re-election, until the end of the Session of General Assembly, next after one year from the time of his appointment shall have expired. On his first election, before he shall have power to Act, he shall give bond to the Governor, with securities, to be approved by the Council of State, in the penalty of one million of dollars, payable to the Commonwealth, with condition, that he will faithfully account for all monies and other things which shall come to his hands in virtue of his office, and perform all other duties thereof; and shall take an oath to the same purpose, and give assurance of fidelity to the Commonwealth, before some Court of Record, or before a Judge or Justice thereof; the administration of which oaths, or the certificate thereof, shall be recorded in such Court. *g*

How qualified.

Vacancy during the recess of the assembly to be supplied by the Executive.

IX. WHEN the office shall become vacant, during the recess of the General Assembly, the Governor, with the advice of the Council of State, shall appoint a successor to act, until such time as he, or another shall be legally elected. *g*

How the treasurer in office shall proceed against his predecessor for the balance which may be due from him to the public.

X. UPON a motion made to the General Court, by a succeeding Treasurer, on behalf of the Commonwealth, whereof more than ten days notice in writing shall have been given to the Obligors, judgment may be awarded for the penalty of the said bonds, to be discharged by payment of so much, as a Jury, to be impannelled instantly, for trial of the issue, if an issue be joined, or to enquire of damages, if the Defendants make default, shall find to be due by breach of the condition aforesaid, with costs. *g*

(*a*) *Oct.* '78. *ch.* 17. '86, *ch.* 33, *sec.* 9, 5. (*b*) '85, *ch.* 45, *sec.* 3. '91, *ch.* 10, *sec.* 1. (*c*) *Oct.* '78, *ch.* 17. '80, *ch.* 15. '86, *ch.* 19. (*d*) 1786, *ch.* 33, *sec.* 4. (*e*) *Oct.* '78, *ch.* 17. (*f*) 1786, *ch.* 33, *sec.* 9. (*g*) 1785, *ch.* 57. † "*Discretion*," *in the original law.*

How he shall keep his accounts.

XI. THE Treasurer, in books provided at the public expense, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of Acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the Commonwealth, but shall thereby be rendered incapable of any office of public trust. *a*

Penalty for misapplying public money.

His clerks.

XII. THE Treasurer shall be allowed as many Clerks as the Executive shall judge necessary.

Not to pay or receive money but on warrant or certificate from the auditor.

Exception.

XIII. IT shall not be lawful for the Treasurer to pay or receive any money on account of the Public, but on warrant or certificate from the Auditor, unless in cases where any future Act of Assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention, that the claim specified by such Act, shall not be audited in the regular course; save only, that the salary of the said Auditor, together with the accounts for the expenses of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the Treasurer by the Governor and Council.

The Auditor's & Treasurer's offices to be under the controul of the Executive.

XIV. THE Executive shall have the controul and superintendance of the Auditor's and Treasurer's offices respectively, as the same are now established by this Act, with power to remove the Auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of Assembly, subject to their approbation. A committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what charges† or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same. *b*

XV. ALL instructions by the Executive in pursuance of the powers hereby vested in them, shall be executed, any law to the contrary notwithstanding.

The Treasurer to represent the Commonwealth in the Potowmac, James river, and Dismal Swamp Canal companies.

XVI. THE Treasurer for the time being shall have a right to vote according to the number of shares which this Commonwealth holds in *Potowmac*, *James River*, and *Dismal Swamp Canal* Companies, in person, or by proxy, appointed by him, at the meetings of the said companies, and shall receive the proportion of the tolls which shall from time to time become due to this state, from the shares aforesaid. *c*

Repealing clause.

XVII. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Commencement of this act.

XVIII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXVI.

An Act for reducing into one, the several Acts concerning the Land-Office; ascertaining the Terms and Manner of granting waste and unappropriated Lands; for settling the Titles and Bounds of Lands; directing the Mode of Processioning, and prescribing the Duty of Surveyors.†

[Passed the 17th of December, 1792.]

Grants of lands to issue from the land-office.

BE *it enacted*, That all grants of lands shall issue from the Land-Office, in manner and form herein after mentioned:

Register how appointed and qualified.

II. A REGISTER of the said Land-Office shall be appointed from time to time by joint ballot of both Houses of Assembly, who shall give bond with suf-

(*a*) 1785, *ch.* 57. (*b*) 1785, *ch.* 45, *sec.* 5. '89, *ch.* 47. (*c*) *From Oct.* '84, *ch.* 58 *and* 82. '91, *ch.* 21. † *See acts of* 1795, *ch.* 9, *and* 1796, *ch.* 24.
† "*Changes*," *in the original law.*

by clerks as the Executive may think neceſſary.

claims or demands whatſoever, againſt the public, ariſing under any Law or Reſolution of the General Aſſembly; and to grant to every public claimant, authoriſed by Law to demand the ſame, a warrant on the Treaſurer, for the ſum due, ſigned with his own hand and name, and atteſted in the hand and name of one of his Clerks, making due entry and regiſter of all his daily proceedings in books for that purpoſe, and carefully arranging, filing and preſerving in his office, all accounts, receipts, vouchers, and papers, touching the ſame. The Auditor on the laſt day of *September* in every year, ſhall transfer the balances to a new account, to be annually opened by him on the firſt day of *October*. There ſhall alſo be an account ſtated againſt the Treaſurer of the Commonwealth *a*

To proceed againſt public debtors.

III. IT ſhall be the duty of the Auditor, to call upon and proceed againſt all public debtors, for the balances due to the Public. *b*

In what manner.

IV. IT ſhall and may be lawful for the Auditor on behalf of the Commonwealth, to move for judgments on any day during the ſitting of the General Court, againſt any perſon or perſons indebted to the Public, and againſt any perſon or perſons indebted to the Public by duty bonds, in the General Court, or County Court of Henrico, on giving ten days previous notice thereof, and thereupon to iſſue executions, and ſend the ſame to the proper Officer; the charges of giving which notice, being firſt paid by the Public, ſhall be recovered of the perſon againſt whom ſuch execution iſſued, in the ſame Court, and in the ſame manner, as debts due to the Public are allowed to be recovered; and on ſuch executions, the Clerk ſhall endorſe "No ſecurity to be taken." *c*

To give bond and ſecurity for the faithful diſcharge of his office.

V. ANY perſon hereafter appointed Auditor, ſhall give bond with ſuch ſecurity as ſhall be approved by the Governor, with the advice of Council, in the ſum of thirty thouſand dollars, payable to the ſaid Governor, or his ſucceſſors, in truſt, for the uſe of the Commonwealth, conditioned for the faithful diſcharge of the duties of his office; which bond ſhall be recorded in the General Court. *d*

Perſons aggrieved by his diſallowing or abating any claim, how redreſſed.

VI. WHERE the Auditor acting according to his direction† and judgment, ſhall diſallow, or abate any article of demand againſt the Commonwealth, and any perſon ſhall think himſelf aggrieved thereby, he ſhall be at liberty to petition the High Court of Chancery, or the Diſtrict Court, holden at the City of *Richmond*, according to the nature of his caſe, for redreſs, and ſuch Court ſhall proceed to do right thereon; and a like petition ſhall be allowed in all other caſes, to any other perſon who is entitled to demand againſt the Commonwealth, any right in Law or Equity. *e*

The chief clerk to act in caſe of ſickneſs of the auditor.

VII. THE chief Clerk of the Auditor, ſhall, in caſe of the ſickneſs of the Auditor, perform the duties of his office. *f*

Treaſurer, his continuance in office.

How qualified.

VIII. THE public Treaſurer may continue in office without re-election, until the end of the Seſſion of General Aſſembly next after one year from the time of his appointment ſhall have expired. On his firſt election, before he ſhall have power to Act, he ſhall give bond to the Governor, with ſecurities, to be approved by the Council of State, in the penalty of one million of dollars, payable to the Commonwealth, with condition, that he will faithfully account for all monies and other things which ſhall come to his hands in virtue of his office, and perform all other duties thereof; and ſhall take an oath to the ſame purpoſe, and give aſſurance of fidelity to the Commonwealth, before ſome Court of Record, or before a Judge or Juſtice thereof; the adminiſtration of which oaths, or the certificate thereof, ſhall be recorded in ſuch Court. *g*

Vacancy during the receſs of the aſſembly to be ſupplied by the Executive.

IX. WHEN the office ſhall become vacant, during the receſs of the General Aſſembly, the Governor, with the advice of the Council of State, ſhall appoint a ſucceſſor to act, until ſuch time as he, or another ſhall be legally elected. *g*

How the treaſurer in office ſhall proceed againſt his predeceſſor for the balance which may be due from him to the public.

X. UPON a motion made to the General Court, by a ſucceeding Treaſurer, on behalf of the Commonwealth, whereof more than ten days notice in writing ſhall have been given to the Obligors, judgment may be awarded for the penalty of the ſaid bonds, to be diſcharged by payment of ſo much, as a Jury, to be impannelled inſtantly, for trial of the iſſue, if an iſſue be joined, or to enquire of damages, if the Defendants make default, ſhall find to be due by breach of the condition aforeſaid, with coſts. *g*

(*a*) *Oct.* '78. *ch.* 17. '86, *ch.* 33, *ſec.* 9, 5. (*b*) '85, *ch.* 45, *ſec.* 3. '91, *ch.* 10, *ſec.* 1. (*c*) *Oct.* '78, *ch.* 17, '80, *ch.* 15. '86, *ch.* 19. (*d*) 1786, *ch.* 33, *ſec.* 4. (*e*) *Oct.* '78, *ch.* 17. (*f*) 1786, *ch.* 33, *ſec.* 9. (*g*) 1785, *ch.* 57. † "*Diſcretion*," *in the original law.*

How he shall keep his accounts.

XI. THE Treasurer, in books provided at the public expense, shall state the accounts of money by him received for public taxes, and impositions, and paid in pursuance of Acts and votes of the General Assembly, in such a manner as that the nett produce of the whole revenue, as well as of every branch thereof, and the amount of disbursements, in discharge of the several demands, may distinctly appear, and lay the said accounts from time to time, and all his other transactions, before the General Assembly: And if he divert or misapply any of the public treasure, being convicted thereof, upon such prosecution as is before prescribed, he shall not only be adjudged to pay double the money so found to have been diverted or misapplied, to the use of the Commonwealth, but shall thereby be rendered incapable of any office of public trust. *a*

Penalty for misapplying public money.

His clerks.

XII. THE Treasurer shall be allowed as many Clerks as the Executive shall judge necessary.

Not to pay or receive money but on warrant or certificate from the auditor.

Exception.

XIII. IT shall not be lawful for the Treasurer to pay or receive any money on account of the Public, but on warrant or certificate from the Auditor, unless in cases where any future Act of Assembly shall in express words, and not by inference or implication only, declare that in that particular case it is to be understood as the intention, that the claim specified by such Act, shall not be audited in the regular course; save only, that the salary of the said Auditor, together with the accounts for the expenses of the office for fuel, blank books, paper, presses for the preservation of the books and papers, and other implements necessary for the use of the office, shall be examined and certified for payment to the Treasurer by the Governor and Council.

The Auditor's & Treasurer's offices to be under the controul of the Executive.

XIV. THE Executive shall have the controul and superintendance of the Auditor's and Treasurer's offices respectively, as the same are now established by this Act, with power to remove the Auditor for misbehaviour or neglect of duty, and to supply any vacancy in the said office, during the recess of Assembly, subject to their approbation. A committee of the Executive to be by them appointed, shall also have power, and is required, that proper checks may be provided, to visit and examine the said offices once in three months at least, or oftener, and shall report to the Governor in writing, under their hands, the situation of the same, the state of the books and papers to the said offices belonging, and what charges† or additions shall in their judgment be proper for conducting the business; which report shall be by him laid before the Board, and entered in their proceedings; and thereupon it shall be lawful for the Executive to direct such correspondent changes in the business of the said offices, as they shall deem necessary for the better conducting the same. *b*

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‡ "*Changes,*" *in the original law.*

ficient security to the Governor or first Magistrate of this Commonwealth, in the penalty of ten thousand dollars; shall hold his office during good behaviour, and shall have power to appoint a Deputy and Clerks to assist in executing the business of the said Office, but shall nevertheless reside there himself. *a*

III. IF any vacancy shall happen by the death, resignation, removal, or other legal disability of a Register, during the recess of the General Assembly, the Governor, or first Magistrate of the Commonwealth, by and with the advice of the Council, may appoint some other person, giving bond and security in like manner, to act as Register of the said Office, until the end of the next Session of Assembly. *a*

Copies attested by him as good evidence as the originals.

IV. ALL copies of the Records, and other papers now being, or which shall hereafter be in the said Office, including those which have been removed from the Office of the late Proprietor of the *Northern Neck*, duly attested by such Register, shall be as good evidence as the originals would be. *a*

Title to waste lands, how to be acquired.

V. *AND be it enacted*, That any person may acquire title to so much waste and unappropriated land lying within this Commonwealth, as he shall desire to purchase, on paying the consideration of two dollars for every hundred acres; which consideration may be paid in specie, or in Auditor's warrants, or audited certificates, and so in proportion for a greater or smaller quantity, and obtaining certificate from the Auditor of public accounts in the following manner: The consideration money shall be paid into the hands of the Treasurer, who shall give to the purchaser a receipt for the payment, specifying the purpose it was made for; which being delivered to the Auditor, he shall give to such person a certificate thereof, with the quantity of land he or she is entitled to, and, upon lodging the same in the Land-Office, the Register thereof shall grant to such person or persons, his or their heirs or assigns, a printed warrant under his hand, and the seal of his Office, specifying the quantity of land, and the rights upon which it is due, authorising any Surveyor, duly qualified according to Law, to lay off and survey the same, and shall regularly enter and record in the books of his Office, all such certificates, and the warrants issued thereupon, which warrants shall be always good and valid until executed by actual survey, or exchanged in the manner herein after directed: *Provided always*, That no warrant shall issue to be located on any lands which may vest in the Commonwealth on account of the non-payment of the taxes thereon, unless the person applying for the same shall pay in consideration thereof at the rate of one hundred dollars for every hundred acres; and, for the better direction of the Surveyors, the Register shall express in the warrant what sum was paid therefor. *b*

Consideration money for waste lands.

Warrants for surveys.

Consideration money for lands forfeited for non-payment of taxes.

Certain lands reserved as a common, and grants thereof declared void.

VI. *PROVIDED also*, That all unappropriated lands on the bay of *Chesapeake*, on the sea shore, or on the shores of any river or creek, and the bed of any river or creek in the Eastern parts of this Commonwealth, which have remained ungranted by the former government, and which have been used as a common to all the good people thereof, shall be, and the same are hereby excepted out of this Act; and no grant issued by the Register of the Land-Office for the same, either in consequence of any survey already made, or which may hereafter be made, shall be valid or effectual in Law to pass any estate or interest therein. *c*

Surveyors how examined and commissioned.

VII. EVERY person who shall hereafter desire to become a Surveyor, shall be nominated by the Court of his County, examined, and certified able by the President and Professors of *William* and *Mary* College, and if of good character, commissioned by the Governor, with a reservation in such commission to the said Professors, for the use of the College, of one fifth part of the legal fees that shall ~~be received by such Surveyor, for the~~ yearly payment of which, he shall give bond with sufficient security to the President and Masters of the said College; he shall hold his Office during good behaviour, and before he shall be capable of entering upon the execution of his Office, shall before the Court of the same County, take an oath, and give bond, with two sufficient securities, to the Governor and his successors, in such sum as he, with advice of Council, shall have directed, for the faithful execution of his Office. *d*

One fifth of their fees appropriated to the college of William & Mary.

Tenure of office.

How qualified.

Their deputies how appointed.

VIII. ALL Deputy-Surveyors shall be recommended by their principals to the Court of the County, of which such principal may be Surveyor; the Court shall thereupon appoint and direct one or more fit persons, to examine into the capacity, ability, and fitness of the person or persons so recommended; and

(*a*) *May* '79, *ch.* 13, *sec.* 1. (*b*) 1785, *ch.* 42. (*c*) *From May* '80, *ch.* 2. † *By act of Dec. sess.* 1801, *ch.* 7, *pa.* 10, *grants for beds of rivers in western parts of state, declared void.* (*d*) *Oct.* '83, *ch.* 32, *sec.* 1.

upon a certificate of such examination, and report of the capacity, ability, and fitness of the person or persons so recommended, the said Court is hereby empowered and directed to appoint him or them to act as deputy or deputies, for whose conduct, in every respect touching his Office, the principal Surveyor shall be answerable; and all deputies so appointed, shall have power and authority to act and do in all things, and to every intent and purpose, as the principal Surveyor, except in cases otherwise provided by this Act; and shall thereupon be entitled to one half the fees received for services performed by them respectively, after deducting the proportion thereof due to the College. If any principal Surveyor shall fail to nominate a sufficient number of deputies to perform the services of his Office in due time, the Court of the County shall direct what number he shall nominate; and in case of failure, shall nominate for him. And if any Deputy-Surveyor, or any other on his behalf, and with his privity, shall pay or agree to pay any greater part of the profits of his Office, sum of money in gross, or other valuable consideration to his principal, for his recommendation or interest in procuring the deputation, such deputy and principal shall be thereby rendered forever incapable of serving in such Office: *Provided always*, That any Deputy-Surveyor shall be removeable from Office, at the discretion of his principal. *a*

Their power and award.

Penalty for giving the principal more.

How removable.

IX. EVERY Surveyor of lands, shall hereafter be resident in the County whereof he is Surveyor, during the time he shall continue in office, under the penalty of forfeiting six hundred dollars for every month he shall reside out of the same, unless detained by such business as the Court of the County shall *judge* reasonable; one moiety shall be to the Commonwealth, for the better support of this government and the contingent charges thereof, and the other moiety to the informer. *b*

Surveyors to reside in the counties wherein they are appointed.

X. WHERE any person shall hold a warrant from the Land-Office, or be desirous to make an entry in any County on the Eastern waters, for vacant and unappropriated land, and there shall be no Surveyor qualified to act in such County, then it shall and may be lawful for such person to make such entry with the Clerk of the County Court, and the same surveyed by any legal Surveyor of the next or neighbouring County, shall be good and sufficient to enable such person to obtain a patent or grant for the same. *c*

How entries and surveys may be made on the Eastern waters where there is no surveyor.

XI. *PROVIDED always*, That the Surveyors of the Counties of *Monongalia*, *Harrison*, *Randolph*, and *Ohio*, shall not be accountable to the President and Masters of *William* and *Mary* College, for any part of the fees which have accrued to them for services subsequent to the first day of *January*, one thousand seven hundred and eighty-eight, or shall hereafter accrue; and the bonds given by them for the yearly payment of one sixth part of their fees to the President and Masters of the said College, shall be, and are hereby declared to be null and void, so far as relates to the fees which became due to them after the said first day of *January*, in the year last mentioned, or shall hereafter become due. *d*

Surveyors of certain counties not accountable to William and Mary College for the one sixth of their fees.

XII. *PROVIDED nevertheless*, That each of the Surveyors of the said Counties of *Monongalia*, *Harrison*, *Randolph*, and *Ohio*, hereafter to be appointed, shall, within one month after he shall be required by the Board of Trustees of the *Randolph* Academy, give bond with sufficient security, in a reasonable sum, for the yearly payment of one sixth part of the fees which he shall receive, to the said Trustees, for the use of the said Academy; and in case any one of the said Surveyors shall fail or refuse to give such bond and security, he shall forfeit and pay to the said Trustees, the sum of three hundred dollars annually, to be recovered by motion in the Court of the County of such Surveyor, upon giving him ten days previous notice of such motion. *d*

But to pay the same to the Randolph Academy.

XIII. EVERY person having a land warrant, and being desirous of locating the same on any particular waste and unappropriated lands, shall lodge such warrant with the chief Surveyor of the county wherein the said lands or the greater part of them lie, who shall give a receipt for it if required. The party shall direct the location thereof so specially and precisely, as that others may be enabled with certainty to locate other warrants on the adjacent residuum; which location shall bear date the day on which it shall be made, and shall be entered by the Surveyor in a book to be kept for that purpose, in which there shall be left no blank leaves or spaces between the different entries. *e*

Land warrants to be lodged with the principal surveyor.

Locations to be precisely made and entered in a book.

XIV. AND if several persons shall apply with their warrants at the office of any Surveyor at the same time, to make entries, they shall be preferred ac-

Preference where several applications to

(*a*) *Oct.* '83, *ch.* 32, *sec.* 1. (*b*) *From Oct.* '83, *ch*, 32, *sec.* 6. (*c*) *Oct.* 1782, *ch.* 83, *sec.* 1. (*d*) 1787, *ch.* 95, *sec.* 14. (*e*) *Oct.* '83, *ch.* 32, *sec.* 1.

locate the ſame land.

cording to the priority of the dates of their warrants; but if ſuch warrants be dated on the ſame day, the Surveyor ſhall ſettle the right of priority between ſuch perſons by lot. *a*

Notice of time of ſurveying to perſons out of the county.

XV. AND every Surveyor ſhall, at the time of making entries for perſons not being inhabitants of his County, appoint a time for ſurveying their land, and give notice thereof in writing to the perſons making the ſame; and if on ſuch application at his office, the Surveyor ſhall refuſe to enter ſuch location, under pretence of a prior entry for the ſame lands made by ſome other perſons, he ſhall have a right to demand of the ſaid Surveyor, a view of the original of ſuch prior entry in his book, and alſo an atteſted copy of it. *a*

How a ſurveyor may locate his own warrants.

XVI. ANY chief Surveyor having a warrant for lands, and deſirous to locate the ſame within his own County, ſhall enter ſuch location with the Clerk of the County, who ſhall return the ſame to his next Court, to be there recorded; and the ſaid Surveyor ſhall proceed to have the ſurvey made as ſoon as may be, or within ſix months at fartheſt, by ſome one of his deputies, or if he hath no deputy, then by any Surveyor or Deputy-Surveyor of an adjacent County; and in caſe of failure, his entry ſhall be void, and the land liable to the entry of any other perſon. *a*

When and how ſurveys of located lands are to be made.

XVII. EVERY chief Surveyor ſhall proceed with all practicable diſpatch, to ſurvey all lands entered for in his office, and ſhall, if the party live within his County, either give him perſonal notice of the time at which he will attend to make ſuch ſurvey, or ſhall publish ſuch notice, by fixing an advertiſement thereof on the door of the Court-houſe of the County, on two ſeveral Court days; which time, ſo appointed, ſhall be at leaſt one month after perſonal notice given, or after the laſt advertiſement ſo publiſhed; and if the Surveyor ſhall accordingly attend, and the party, or ſome one for him, ſhall fail to appear at the time, with proper chain carriers, and a perſon to mark the lines, if neceſſary, his entry ſhall become void, the land thereafter ſubject to the entry of any other perſon, and the Surveyor ſhall return him the warrant, which may, notwithſtanding, be located anew, upon any other waſte or unappropriated lands, or again upon the ſame land, where it hath not in the mean time been entered for by another perſon. *a*

Variation of the magnetic needle to be expreſſed in plats of ſurveys.

XVIII. AND whereas many inconveniences have ariſen from the inattention of Surveyors to the variation of the magnetic needle, in re-ſurveying lands which were formerly ſurveyed, when the variation was very different from what it is now, and many miſtakes and much confuſion may ariſe in comparing future ſurveys with the preſent: For remedy whereof, *Be it enacted*, That every Surveyor ſhall, under the penalty of fifteen dollars, expreſs and declare, in or on the plat and return of each ſurvey, by him or them taken or made, the true quantity or degree of the variation aforeſaid, and whether it be eaſt or weſt. *b*

Proviſo.

XIX. *PROVIDED always*, That when any Surveyor ſhall be called upon, or ordered to re-ſurvey any lands, that may have been ſurveyed before the firſt day of *June*, in the year of our Lord, one thouſand ſeven hundred and ſeventy-three, ſuch Surveyor ſhall or may re-ſurvey ſuch lands, according to the mode of ſurveying by the magnetic meridian, but ſhall, nevertheleſs, under the penalty aforeſaid, return and certify, in his plat, the quantity or degree of the variation of the magnetic needle from the true meridian, at the time of making ſuch re-ſurvey, and ſhall alſo, in the ſaid plat and return, certify, (where the ſame can be done) the quantity or degree of variation between the original lines of ſuch former ſurvey, from the true meridian aforeſaid. *b*

Penalty for failure how recoverable.

XX. THE penalty of fifteen dollars aforementioned, may be recovered by any perſon or perſons who ſhall ſuſtain any damage by the Surveyor's failing to comply with the directions aforeſaid, who will inform or ſue for the ſame, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth. *b*

Surveyor may direct a deputy to ſurvey.

XXI. WHERE the chief Surveyor doth not mean to ſurvey himſelf, he ſhall immediately after the entry made, direct a deputy ſurveyor to perform the duty, who ſhall proceed as is before directed in the caſe of the chief Surveyor. *c*

Chain carriers to be ſworn.

XXII. THE perſons employed to carry the chain on any ſurvey, ſhall be ſworn by the Surveyor, whether principal or deputy, to meaſure juſtly and exactly, to the beſt of their abilities, and to deliver a true account thereof to ſuch Surveyor, and ſhall be paid for their trouble by the party for whom the ſurvey is made. *c*

(a) Oct. '83, ch. 32. (b) Feb. '72, ch. 12, ſec. 1, 2. (c) Oct. '83, ch. 32.

Surveys to be closed, lines marked, and length and breadth proportioned. Exception.

XXIII. THE Surveyor, at the time of making the ſurvey, ſhall not leave any open lines, but ſhall ſee the ſame bounded plainly by marked trees, except where a water courſe, or ancient marked line ſhall be the boundary, and ſhall make the breadth of each ſurvey, at leaſt one third of its length in every part, unleſs where ſuch breadth ſhall be reſtrained on both ſides by mountains unfit for cultivation, by water courſes, or the bounds of lands before appropriated. *a*

Plats and certificates when to be delivered.

XXIV. THE Surveyor ſhall, as ſoon as it can conveniently be done, and within three months at fartheſt after making the ſurvey, deliver to his employer, or his order, a fair and true plat and certificate of ſuch ſurvey, the quantity contained, the hundred (where hundreds are eſtabliſhed in the County) wherein it lies, the courſes and deſcriptions of the ſeveral boundaries, natural and artificial, ancient and new, expreſſing the proper names of ſuch natural boundaries, where they have any, and the name of every perſon whoſe former lines made a boundary, and alſo the nature of the warrant and rights on which ſuch ſurvey was made. *a*

To be examined and entered in the book of the principal ſurveyor.

XXV. THE ſaid plats and certificates ſhall be examined and tried by the ſaid principal Surveyor, whether truly made and legally proportioned as to length and breadth, and ſhall be entered within three months at fartheſt, after the ſurvey is made, in a book well bound, to be provided by the Court of his County at the County charge; and he ſhall, in the month of *July* every year, return to the Preſident and Profeſſors of *William* and *Mary* College, and alſo to the Clerk's Office of his County Court, a true liſt of all ſurveys made by him or his deputies in the preceding twelve months, with the names of the perſons for whom they were reſpectively made, and the quantities contained in each, there to be recorded by ſuch Clerk; and no perſon ſhall hereafter hold the Offices of Clerk of a County Court and Surveyor of a County, nor ſhall a deputy in either Office, act as deputy or chief in the other. *a*

Liſts of ſurveys to be annually returned to the clerk of the county and to the college.

No perſon to be clerk and ſurveyor of the ſame county.

How ſurveyors may be puniſhed for neglect.

XXVI. ANY Surveyor, whether principal or deputy, failing in any of the duties aforeſaid, ſhall be liable to be indicted in the Court of the Diſtrict in which he ſhall reſide, and puniſhed by amercement or deprivation of his Office, and incapacity to take it again, at the diſcretion of a jury; and ſhall moreover, be liable to any party injured, for all damages he may ſuſtain by ſuch failure. *a*

Their offices to be annually inſpected.

XXVII. EVERY County Court ſhall once in every year, and oftener if they ſee cauſe, appoint two or more capable perſons to examine the books of entries and ſurveys in poſſeſſion of their chief Surveyor, and to report in what order and condition the ſame are kept; and on his death, or removal, ſhall have power to take the ſame into their poſſeſſion, and deliver them to the ſucceeding chief Surveyor. *a*

Penalty on ſurveyors refuſing to produce or deliver up their books when required by the court.

XXVIII. IF any Surveyor, or other perſon who may be in poſſeſſion of any ſuch book of entries or ſurveys, ſhall refuſe or neglect to produce ſuch book to the perſons, who by any Court may be appointed to examine the ſame, or to deliver up the ſame agreeable to the order of ſuch Court to any chief Surveyor who has ſucceeded or may ſucceed any Surveyor, dead, or removed from Office, ſuch Surveyor, or other perſon, ſhall, for every ſuch refuſal, or neglect, forfeit and pay the ſum of thirty dollars; one half to the uſe of the County, and the other half to the uſe of the perſon ſuing for the ſame; to be recovered by action of debt, plaint, or information. *b*

No plat to be delivered but to the owner within a year,

Unleſs a caveat be entered,

Penalty.

XXIX. AND for preventing haſty and ſurreptitious grants, and avoiding controverſies and expenſive law ſuits: *Be it enacted*, That no Surveyor ſhall, at any time within twelve months after the ſurvey made, iſſue or deliver any certificate, copy, or plat of land by him ſurveyed, except only to the perſon or perſons for whom the ſame was ſurveyed, or to his, her, or their order, unleſs a *caveat* ſhall have been entered againſt a grant to the perſon claiming under ſuch ſurvey, to be proved by an authentic certificate of ſuch *caveat*, from the Clerk of the Court, where ſuch *caveat* ſhall be entered, produced to the Surveyor; and if any Surveyor ſhall preſume to iſſue any certificate, copy, or plat as aforeſaid, to any other than the perſon or perſons entitled thereto, every Surveyor ſo offending, ſhall forfeit and pay to the party injured, his, or her legal repreſentatives, or aſſigns, one hundred dollars for every hundred acres of land contained in the ſurvey, whereof a certificate, copy, or plat ſhall be ſo iſſued, or ſhall be liable to the action of the party injured at the common Law, for his, or her damages, at the election of the party. *c*

No entry to be made

XXX. IT ſhall not be lawful for any Surveyor to admit an entry for any

(*a*) *October* 1783, *ch.* 32. (*b*) 1787. *ch.* 52, *ſec.* 5. (*c*) *Oct.* '93, *ch.* 32.

Without a warrant from the regiſter, or a certificate from a ſurveyor

land, without a warrant from the Regiſter of the Land-Office, or on a certificate from a principal Surveyor, that ſuch warrant is filed in his Office, which certificate ſhall deſcribe the number thereof, the time when iſſued, to whom, and the aſſignments thereon, if any there be. *a*

Plats of ſurveys to be returned into the land office within twelve months.

XXXI. EVERY perſon for whom any waſte or unappropriated lands ſhall be ſo located and laid off, ſhall within twelve months at fartheſt after the ſurvey made, return the plat and certificate of the ſaid ſurvey into the Land-Office, and may demand of the Regiſter a receipt for the ſame; and on failing to make ſuch return within twelve months, as aforeſaid, or if the breadth of his plat be not one third of its length, as before directed, it ſhall be lawful for any other perſon to enter a *caveat* in the ſaid Land-Office againſt the iſſuing of any grant to him, expreſſing therein for what cauſe the grant ſhould not iſſue; or if any perſon ſhall obtain a ſurvey of lands to which another hath by Law a better right, the perſon having ſuch better right, may in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; ſuch *caveat* alſo expreſſing the nature of the right on which the plaintiff therein claims the ſaid land. *a*

Caveats.

Proceedings thereon.

XXXII. THE perſon entering any *caveat*, ſhall take from the Regiſter of the Land-Office, a certified copy thereof, which within thirty days thereafter, he ſhall deliver to the Clerk of the Court of that Diſtrict or County in which the land lies; and ſhall moreover take from the Surveyor of the County, or from the Regiſter's Office, a certified copy of the ſurvey and plat, which within thirty days from the entering ſuch *caveat*, he ſhall in like manner deliver to the Clerk of the Court where the ſuit ſhall be inſtituted; and in caſe of failure in either inſtance, the *caveat* ſhall be void. *a*

XXXIII. THE Clerk of ſuch Court, on receiving the ſame, ſhall enter ſuch copy of the *caveat* in a book to be kept by him for that purpoſe, and ſhall thereupon iſſue a ſummons, reciting the cauſe for which ſuch *caveat* is entered, and requiring the Defendant to appear on the firſt day of the next ſucceeding Diſtrict Court, or quarterly Seſſion, if the ſuit be inſtituted in a County Court, and defend his right; and on ſuch proceſs being returned executed, the Court ſhall proceed to determine the right of the cauſe in a ſummary way, without pleadings in writing, impannelling and ſwearing a Jury for the finding of ſuch facts as are material to the cauſe, and are not agreed by the parties, and ſhall thereupon give judgment; a copy of ſuch judgment, if in favor of the Defendant, being delivered into the Land-Office, ſhall vacate the ſaid *caveat*; and if not delivered within three months, a new *caveat* may for that cauſe be entered againſt the grant; and if the ſaid judgment be in favor of the Plaintiff, upon delivering the ſame into the Land Office, together with a plat and certificate of the ſurvey, and alſo producing a legal certificate of new rights on his own account, he ſhall be entitled to a grant thereof; but on failing to make ſuch return, and produce ſuch certificates within ſix months after judgment ſo rendered, it ſhall be lawful for any other perſon to enter a *caveat* for that cauſe againſt iſſuing the grant; upon which ſubſequent *caveats*, ſuch proceedings ſhall be had as are before directed in the caſe of an original *caveat*; and in any *caveat*, where judgment ſhall be given for the Defendant, the Court ſhall award him his coſts, and may compel the Plaintiff, in any *caveat*, if they think fit, to give ſecurity for coſts, or on failure thereof, may diſmiſs the ſuit; and in caſe the Plaintiff in any ſuch *caveat* ſhall recover, the Court may, if they think it reaſonable, award coſts againſt the Defendant: *Provided*, that where any lands ſurveyed upon a land warrant as aforeſaid, ſhall in conſequence of any judgment upon a *caveat*, be granted to any other perſon than the party claiming under ſuch warrant, ſuch party ſhall be entitled to a new warrant from the Regiſter for the quantity of land ſo granted to another, reciting the original warrant and rights, and the particular cauſe of granting the new warrant. *a*

Affidavit to be filed by the perſon entering a caveat.

XXXIV. *PROVIDED always*, That no *caveat* ſhall be entered, unleſs the perſon at the time of entering ſuch *caveat*, ſhall file with the Regiſter or his Deputy, an affidavit that ſuch *caveat* is really and *bona fide* made with an intention of procuring the lands for the perſon in whoſe name ſuch *caveat* is entered, and not in truſt for the benefit of the perſon againſt whom ſuch *caveat* is entered; and all *caveats* entered contrary to the directions of this Act, ſhall be abſolutely null and void. *b*

Caveats to be diſmiſſed if the ſummons be not

XXXV. AND wherever a ſummons upon a *caveat* ſhall either not be returned at all, or be returned not executed, the *caveat* upon which ſuch ſummons

(*a*) *May* 1779, *ch.* 13, *ſec.* 3. 1787, *ch.* 10. (*b*) *May* 1783, *ch.* 39, *ſec.* 4.

shall have iſſued, shall be diſmiſſed with coſts, unleſs the Court, before whom ſuch *caveat* shall be depending, shall be ſatisfied that the ſaid ſummons not having been executed, did not proceed from the neglect of the party who entered ſuch *caveat*. *a*

ſerved or not returned.

XXXVI. AND whereas in ſome caſes plats and certificates of ſurvey have not been recorded in the Surveyor's office, nor returned to the Regiſter's office within the times reſpectively limited by law, and it is doubtful whether the lands held under ſuch ſurveys are not ſtill liable to be *caveated*: *Be it therefore enacted*, that where no *caveat* shall be entered before the ſaid duties reſpectively ſhall be performed, ſuch lands ſhall not thereafter be liable to forfeiture on account of ſuch failure. *b*

Caveats not to be entered after the duties performed.

XXXVII. THE Clerks of the ſeveral Diſtrict and County Courts, within one month after the end of every Seſſion of the ſaid Courts, ſhall return to the Regiſter of the Land-Office, an atteſted liſt of all *caveats* that were diſmiſſed or determined at the ſaid preceding Court, which the Regiſter ſhall compare with the *caveat* book; and in all caſes where he ſhall find that the *caveats* have been diſmiſſed, or determined in favor of the Defendant, he ſhall make out grants for ſuch lands, as if no ſuch *caveats* had been entered in his office. *c*

Liſts of caveats diſmiſſed, or determined to be ſent to the land-office.

XXXVIII. WHENSOEVER upon a *caveat*, the Court ſhall determine in favor of a *caveator*, all the fees he ſhall pay into the Regiſter's Office, in conſequence of ſuch determination, in order to obtain his patent, ſhall be by the Regiſter paid to the perſon who, in the firſt inſtance upon the return of the ſurvey, hath been compelled to pay the fees. *d*

When a caveat is eſtabliſhed, fees paid by the caveator to be paid to the perſon returning the ſurvey.

XXXIX. AND to prevent confuſion and miſtakes in the application, exchange or renewal of warrants, the Regiſter of the Land-Office is hereby directed and required, to leave a ſufficient margin in the record books of his Office, and whenever any warrant ſhall be exchanged, renewed, or finally carried into execution by a grant, to note the ſame in the margin oppoſite to ſuch warrant, with folio references to the grant, or other mode of application; and alſo to note in the margin oppoſite to each grant, the warrant or warrants, and ſurvey on which ſuch grant is founded, with proper folio references to the books in which the ſame are recorded. *e*

Notes and references to be made by the regiſter in the margins of the record books containing the warrants and grants.

XL. ALL perſons, as well Foreigners as others, ſhall have right to aſſign or tranſfer warrants or certificates of ſurvey for lands; and any Foreigner purchaſing warrants for lands, may locate and have the ſame ſurveyed, and after returning a certificate of ſurvey to the Land-Office, ſhall be allowed the term of two years, either to become a Citizen, or to transfer his right in ſuch certificate of ſurvey, to ſome Citizen of this, or any other of the United States of *America*. *e*

Warrants and certificates of ſurveys tranſferrable.
Foreigners may locate and ſurvey lands.

XLI. WHEN any grant ſhall have been finally completed, the Regiſter ſhall cauſe the plat and certificate of ſurvey on which ſuch grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpoſe at the public charge. *e*

Plats of ſurveys on which grants may iſſue to be recorded.

XLII. DUE returns of the ſeveral articles herein before required, being made into the Land-Office, the Regiſter, within not leſs than ſix, nor more than nine months, ſhall make out a grant by way of deed-poll, to the party having right, in the following form:

Form of the grant.

A. B. *Eſquire, Governor of the Commonwealth of* Virginia, *to all to whom theſe preſents ſhall come, greeting: Know ye, that in conſideration of military ſervice performed by* C. D. *to this Commonwealth, &c. (or in conſideration of military ſervice performed by* C. D. *to the United* American *States, or in conſideration of the ſum of paid by* C. D. *into the Treaſury of this Commonwealth, &c.) there is granted by the ſaid Commonwealth unto the ſaid* C. D. *a certain tract or parcel of land containing acres, lying in the County of , and hundred of , &c. (deſcribing the particular bounds of the land, and the date of the ſurvey upon which the grant iſſues) with its appurtenances; to have and to hold the ſaid tract or parcel of land, with its appurtenances, to the ſaid* C. D. *and his heirs, for ever. In witneſs whereof, the ſaid* A. B. *Governor of the Commonwealth of* Virginia, *hath hereunto ſet his hand, and cauſed the ſeal of the ſaid Commonwealth to be affixed at , on the day of , in the year of our Lord , and of the Commonwealth , A. B.* *g*

To be ſigned, ſealed, and recorded.

XLIII. UPON which grant the ſaid Regiſter ſhall endorſe, that the party hath title to the ſame; whereupon it ſhall be ſigned by the Governor, ſealed

(*a*) *May* 1783, *ch.* 39, *ſec.* 4. (*b*) *May* 1782, *ch.* 40, *ſec.* 4. (*c*) *May* 1783, *ch.* 3, *ſec.* 5. (*d*) *Oct.* 1784, *ch.* 51, *ſec.* 5. (*e*) *May* 1779, *ch.* 13, *ſec.* 3.

Without a warrant from the regiſter, or a certificate from a ſurveyor

land, without a warrant from the Regiſter of the Land-Office, or on a certificate from a principal Surveyor, that ſuch warrant is filed in his Office, which certificate ſhall deſcribe the number thereof, the time when iſſued, to whom, and the aſſignments thereon, if any there be. *a*

Plats of ſurveys to be returned into the land office within twelve months.

XXXI. EVERY perſon for whom any waſte or unappropriated lands ſhall be ſo located and laid off, ſhall within twelve months at fartheſt after the ſurvey made, return the plat and certificate of the ſaid ſurvey into the Land-Office, and may demand of the Regiſter a receipt for the ſame; and on failing to make ſuch return within twelve months, as aforeſaid, or if the breadth of his plat be not one third of its length, as before directed, it ſhall be lawful for any other perſon to enter a *caveat* in the ſaid Land-Office againſt the iſſuing of any grant to him, expreſſing therein for what cauſe the grant ſhould not iſſue; or if any perſon ſhall obtain a ſurvey of lands to which another hath by Law a better right, the perſon having ſuch better right, may in like manner, enter a *caveat* to prevent his obtaining a grant, until the title can be determined; ſuch *caveat* alſo expreſſing the nature of the right on which the plaintiff therein claims the ſaid land. *a*

Caveats.

Proceedings thereon.

XXXII. THE perſon entering any *caveat*, ſhall take from the Regiſter of the Land-Office, a certified copy thereof, which within thirty days thereafter, he ſhall deliver to the Clerk of the Court of that Diſtrict or County in which the land lies; and ſhall moreover take from the Surveyor of the County, or from the Regiſter's Office, a certified copy of the ſurvey and plat, which within thirty days from the entering ſuch *caveat*, he ſhall in like manner deliver to the Clerk of the Court where the ſuit ſhall be inſtituted; and in caſe of failure in either inſtance, the *caveat* ſhall be void. *a*

XXXIII. THE Clerk of ſuch Court, on receiving the ſame, ſhall enter ſuch copy of the *caveat* in a book to be kept by him for that purpoſe, and ſhall thereupon iſſue a ſummons, reciting the cauſe for which ſuch *caveat* is entered, and requiring the Defendant to appear on the firſt day of the next ſucceeding Diſtrict Court, or quarterly Seſſion, if the ſuit be inſtituted in a County Court, and defend his right; and on ſuch proceſs being returned executed, the Court ſhall proceed to determine the right of the cauſe in a ſummary way, without pleadings in writing, impannelling and ſwearing a Jury for the finding of ſuch facts as are material to the cauſe, and are not agreed by the parties, and ſhall thereupon give judgment; a copy of ſuch judgment, if in favor of the Defendant, being delivered into the Land-Office, ſhall vacate the ſaid *caveat*; and if not delivered within three months, a new *caveat* may for that cauſe be entered againſt the grant; and if the ſaid judgment be in favor of the Plaintiff, upon delivering the ſame into the Land Office, together with a plat and certificate of the ſurvey, and alſo producing a legal certificate of new rights on his own account, he ſhall be entitled to a grant thereof; but on failing to make ſuch return, and produce ſuch certificates within ſix months after judgment ſo rendered, it ſhall be lawful for any other perſon to enter a *caveat* for that cauſe againſt iſſuing the grant; upon which ſubſequent *caveats*, ſuch proceedings ſhall be had as are before directed in the caſe of an original *caveat*; and in any *caveat*, where judgment ſhall be given for the Defendant, the Court ſhall award him his coſts, and may compel the Plaintiff, in any *caveat*, if they think fit, to give ſecurity for coſts, or on failure thereof, may diſmiſs the ſuit; and in caſe the Plaintiff in any ſuch *caveat* ſhall recover, the Court may, if they think it reaſonable, award coſts againſt the Defendant: *Provided*, that where any lands ſurveyed upon a land warrant as aforeſaid, ſhall in conſequence of any judgment upon a *caveat*, be granted to any other perſon than the party claiming under ſuch warrant, ſuch party ſhall be entitled to a new warrant from the Regiſter for the quantity of land ſo granted to another, reciting the original warrant and rights, and the particular cauſe of granting the new warrant. *a*

Affidavit to be filed by the perſon entering a caveat.

XXXIV. *PROVIDED always*, That no *caveat* ſhall be entered, unleſs the perſon at the time of entering ſuch *caveat*, ſhall file with the Regiſter or his Deputy, an affidavit that ſuch *caveat* is really and *bona fide* made with an intention of procuring the lands for the perſon in whoſe name ſuch *caveat* is entered, and not in truſt for the benefit of the perſon againſt whom ſuch *caveat* is entered; and all *caveats* entered contrary to the directions of this Act, ſhall be abſolutely null and void. *b*

Caveats to be diſmiſſed if the ſummons be not

XXXV. AND wherever a ſummons upon a *caveat* ſhall either not be returned at all, or be returned not executed, the *caveat* upon which ſuch ſummons

(*a*) *May* 1779, *ch.* 13, *ſec.* 3. 1787, *ch.* 10. (*b*) *May* 1783, *ch.* 39, *ſec.* 4.

shall have iſſued, ſhall be diſmiſſed with coſts, unleſs the Court, before whom ſuch *caveat* ſhall be depending, ſhall be ſatisfied that the ſaid ſummons not having been executed, did not proceed from the neglect of the party who entered ſuch *caveat*. *a*

ſerved or not returned.

XXXVI. AND whereas in ſome caſes plats and certificates of ſurvey have not been recorded in the Surveyor's office, nor returned to the Regiſter's office within the times reſpectively limited by law, and it is doubtful whether the lands held under ſuch ſurveys are not ſtill liable to be *caveated*: *Be it therefore enacted*, that where no *caveat* ſhall be entered before the ſaid duties reſpectively ſhall be performed, ſuch lands ſhall not thereafter be liable to forfeiture on account of ſuch failure. *b*

Caveats not to be entered after the duties performed.

XXXVII. THE Clerks of the ſeveral Diſtrict and County Courts, within one month after the end of every Seſſion of the ſaid Courts, ſhall return to the Regiſter of the Land-Office, an atteſted liſt of all *caveats* that were diſmiſſed or determined at the ſaid preceding Court, which the Regiſter ſhall compare with the *caveat* book; and in all caſes where he ſhall find that the *caveats* have been diſmiſſed, or determined in favor of the Defendant, he ſhall make out grants for ſuch lands, as if no ſuch *caveats* had been entered in his office. *c*

Liſts of caveats diſmiſſed, or determined to be ſent to the land-office.

XXXVIII. WHENSOEVER upon a *caveat*, the Court ſhall determine in favor of a *caveator*, all the fees he ſhall pay into the Regiſter's Office, in conſequence of ſuch determination, in order to obtain his patent, ſhall be by the Regiſter paid to the perſon who, in the firſt inſtance upon the return of the ſurvey, hath been compelled to pay the fees. *d*

When a caveat is eſtabliſhed, fees paid by the caveator to be paid to the perſon returning the ſurvey.

XXXIX. AND to prevent confuſion and miſtakes in the application, exchange or renewal of warrants, the Regiſter of the Land-Office is hereby directed and required, to leave a ſufficient margin in the record books of his Office, and whenever any warrant ſhall be exchanged, renewed, or finally carried into execution by a grant, to note the ſame in the margin oppoſite to ſuch warrant, with folio references to the grant, or other mode of application; and alſo to note in the margin oppoſite to each grant, the warrant or warrants, and ſurvey on which ſuch grant is founded, with proper folio references to the books in which the ſame are recorded. *e*

Notes and references to be made by the regiſter in the margins of the record books containing the warrants and grants.

XL. ALL perſons, as well Foreigners as others, ſhall have right to aſſign or tranſfer warrants or certificates of ſurvey for lands; and any Foreigner purchaſing warrants for lands, may locate and have the ſame ſurveyed, and after returning a certificate of ſurvey to the Land-Office, ſhall be allowed the term of two years, either to become a Citizen, or to tranſfer his right in ſuch certificate of ſurvey, to ſome Citizen of this, or any other of the United States of *America*. *e*

Warrants and certificates of ſurveys tranſferrable.
Foreigners may locate and ſurvey lands.

XLI. WHEN any grant ſhall have been finally completed, the Regiſter ſhall cauſe the plat and certificate of ſurvey on which ſuch grant is founded, to be exactly entered and recorded in well bound books, to be provided for that purpoſe at the public charge. *e*

Plats of ſurveys on which grants may iſſue to be recorded.

XLII. DUE returns of the ſeveral articles herein before required, being made into the Land-Office, the Regiſter, within not leſs than ſix, nor more than nine months, ſhall make out a grant by way of deed-poll, to the party having right, in the following form:

Form of the grant.

A. B. *Eſquire, Governor of the Commonwealth of* Virginia, *to all to whom theſe preſents ſhall come, greeting: Know ye, that in conſideration of military ſervice performed by* C. D. *to this Commonwealth, &c. (or in conſideration of military ſervice performed by* C. D. *to the United* American *States, or in conſideration of the ſum of paid by* C. D. *into the Treaſury of this Commonwealth, &c.) there is granted by the ſaid Commonwealth unto the ſaid* C. D. *a certain tract or parcel of land containing acres, lying in the County of , and hundred of , &c. (deſcribing the particular bounds of the land, and the date of the ſurvey upon which the grant iſſues) with its appurtenances; to have and to hold the ſaid tract or parcel of land, with its appurtenances, to the ſaid* C. D. *and his heirs, for ever. In witneſs whereof, the ſaid* A. B. *Governor of the Commonwealth of* Virginia, *hath hereunto ſet his hand, and cauſed the ſeal of the ſaid Commonwealth to be affixed at , on the day of , in the year of our Lord , and of the Commonwealth* A. B.

XLIII. UPON which grant the ſaid Regiſter ſhall endorſe, that the party hath title to the ſame; whereupon it ſhall be ſigned by the Governor, ſealed

To be ſigned, ſealed, and recorded.

(*a*) *May* 1783, *ch.* 39, *ſec.* 4. (*b*) *May* 1782, *ch.* 40, *ſec.* 4. (*c*) *May* 1783, *ch.* 3, *ſec.* 5. (*d*) *Oct.* 1784, *ch.* 51, *ſec.* 5. (*e*) *May* 1779, *ch.* 13, *ſec.* 3.

with the seal of the Commonwealth, and then entered of record at full length, in good and well bound books, to be provided for that purpose at the public expense, and kept by the Register; and being so entered, shall be certified to have been registered, and then be delivered to the party or his order. *a*

If made to heirs or assignees, material circumstances of the title to be recited.

XLIV. WHERE a grant shall be made to the heir or assignee of a person claiming under any of the before mentioned rights, the material circumstances of the title shall be recited in such grant. *a*

Right of pre-emptions of infants, femes covert, &c. to swamps, &c. contiguous to their high lands.

XLV. THE Proprietor of any high lands, to which any swamps, marshes, or sunken grounds are contiguous, if an infant, *feme covert*, beyond sea, or under any other legal disability, shall have a right of pre-emption to enter for and complete his or her title thereto, at any time within three years after such disability shall be removed. *b*

Method of obtaining grants for surplus lands within the bounds of patents.

XLVI. AND whereas, through the ignorance, negligence, or fraud of Surveyors, it may happen that divers persons now do, or may hereafter hold within the bounds expressed in their patents or grants, greater quantities of land than are therein mentioned: For quieting such possessions, preventing controversies, and doing equal justice to the Commonwealth and its Citizens; *Be it enacted*, that it shall not be lawful for any person to enter for, survey, or take up any parcel of land held as surplus in any patent or grant, except during the lifetime of the patentee or grantee, and before any transference, conveyance, or other alienation shall have been made of the lands contained in such patent or grant, and until the party intending to enter and take up the same, shall have given one full year's notice to such patentee or grantee, of such his intention; and in case such patentee or grantee, shall not within the year, obtain rights and sue forth a patent for the surplus land by him held, it shall be lawful for the person who gave notice as aforesaid, upon producing a certificate from the Clerk, of due proof of such notice before the Court of the County wherein such patentee or grantee resides, and to demand from the Register of the Land-Office, a warrant to the Surveyor of the County wherein such lands lie, to re-survey at the proper charge of the person obtaining such warrant, the whole tract within the bounds of the patent or grant, and upon such person's returning into the Land-Office a plat and certificate of such re-survey, together with the warrant on which it is founded, and obtaining and producing new rights for all the surplus land found within the said bounds, he may sue forth and obtain a new grant for such surplus, which shall be granted to him in the same manner as waste or unappropriated land; but the former patentee or grantee may assign such surplus land in any part of his tract as he shall think fit, in one entire piece, the breadth of which shall be at least one third of the length, and in such new grant there shall be a recital of the original patent or grant, the re-survey of which the surplus was ascertained, and of other material circumstances. *c*

Provide for the relief of land-holders unjustly vexed.

XLVII. *PROVIDED always*, That if upon notice given as aforesaid, the original patentee or grantee shall, within the year, re-survey his tract, and it be thereupon found that he hath no more than the quantity of land expressed in his patent or grant, with the allowance herein after mentioned, the party giving such notice shall be liable to pay all charges of such re-survey, for which he shall give sufficient security to the said patentee or grantee, at the time of the notice, otherwise such notice shall be void and of no effect; and moreover, for his unjust vexation, shall also be liable to an action upon the case, at the suit of the party grieved; and that in all such new surveys, the patentee or grantee shall have an allowance, at the rate of five acres in every hundred, for the variation of instruments. *c*

Method of rectifying mistakes in bounds, and obtaining inclusive patents.

XLVIII. WHERE any person shall find any mistake or uncertainty in the courses or description of the bounds of his land, and desires to rectify the same, or shall hold two or more tracts of land adjoining to each other, and is desirous to include them in one grant, he may in either case, having previously advertised his intentions, and the time of application, at the door of the Court-house on two several Court days, and also having given notice to the owners of the adjoining lands, present a petition to the Court of the County in which the lands lie, reciting the nature and truth of the case, and such Court may, and is hereby empowered to order the Surveyor of their County to re-survey such lands at the charge of the party, according to his directions, and the original or authentic title papers, taking care not to intrude upon the possessions of any other persons, and to return a fair plat and certificate of such re-survey into

(*a*) *May* 1779, *ch.* 13. (*b*) 1784, *ch.* 10, *sec.* 4. (*c*) *May* '79, *ch.* 13, *sec.* 4, 5.

the said Court, to be examined and compared with the title papers; and if such Court shall certify that, in their opinion, such re-survey is just and reasonable, the party may return the same, together with his material title papers into the Land-Office, and demand the Register's receipt for them; and in case any *caveat* shall be entered against his obtaining a new grant upon such re-survey, the same proceedings shall be had therein, as is directed in the case of other *caveats*, and the Court upon hearing the same, may either prohibit such new grant, or vacate the *caveat*, as to them shall seem just; but if no *caveat* shall be entered within six months after such return, or if a *caveat* shall be entered and vacated as aforesaid, the party upon producing new rights for whatever surplus land appears to be within the bounds, more than the before-mentioned allowance of five acres for every hundred, may sue out and obtain a new grant for such lands thereupon, in which shall be recited the dates and other material circumstances of the former title, and the title papers shall be delivered by the Register to the new owner. *a*

The General Court to cause the land-office to be examined once in every year or oftener, & certain warrants to be cancelled.

XLIX. THE Judges of the General Court shall once in every year, and oftener if they see cause, appoint two or more capable persons, to examine the Record books and papers in the Land-Office, and report in what condition and order they are kept, who shall compare all warrants of survey returned to the said office executed, with the list of those issued therefrom, and cancel all such as shall appear to have been properly executed or exchanged, an account of which shall be kept by the Register, charging therein those issued, and giving credit for those cancelled as aforesaid; but no original warrant shall be burnt or otherwise destroyed, but shall be regularly filed in the Land-Office with the title papers. *a*

All original warrants to be filed with the title papers.

Plats on which surveys have issued to remain in the office.

L. NO original plat and certificate of survey, once received and carried into grant, shall thereafter be delivered out of the Land-Office, but shall remain amongst the other evidences of the title. *b*

When and how the Register shall account for the fees received.

LI. THE Register of the Land-Office shall account for with the Auditor, and pay regularly into the Treasury, at the end of every six months, all fees by him received from time to time, making oath that the fees so accounted for, are the whole profits accruing from the said office, so far as he knows or believes, up to the date of such account; and moreover his accounts of fees received, shall be fairly stated, and compared by the Auditor with the books of his office, before the account shall be passed. If the Register of the Land-Office shall at any time fail to account, according to the directions of this Act, for the space of six months, he shall forfeit and pay the sum of ten thousand dollars, to be recovered in the name of the Governor or Chief Magistrate for the time being, in any Court of Record, by the Auditor, on thirty days previous notice; and the *onus probandi* shall lie on the Defendant. *c*

Fees to be paid on receipt of the plat into the office.

LII. ON receiving each survey into the Register's office, the fees established by Law, that will accrue on the same, including the issuing of the grant thereupon, shall be paid; and if the Register shall credit any person, he shall account for the fees so credited in the same manner as if they had been received. *c*

High sheriff to vote when the court is divided in the recommendation of a surveyor.

LIII. WHENSOEVER any County Court shall be so divided in the recommendation of a Surveyor, that neither of the Candidates shall be recommended, it shall be lawful for the High Sheriff of such County, and he is hereby required to vote in favor of one of those Candidates between whom the Court shall be divided. *d*

Surveyors not to withhold plats from the owners.
Surveyors out of office, how they may recover their fees.
When surveyors may withhold plats until the fees are paid or secured.

LIV. IT shall not be lawful for any County Surveyor, hereafter to withhold from any person entitled to demand the same, a plat by him demanded; and every Surveyor out of office, shall have the same remedy for fees due to him, as is hereby given to the acting Surveyors: *Provided*, that no Surveyor shall be obliged to deliver a plat of land to any person or persons not resident within the State, before the fees for the same shall be paid, or such security given for the payment thereof, as to him shall be deemed sufficient. *e*

When a new county is formed, copies of entries for lands therein to be delivered to the surveyor thereof, by the surveyor of the former county.

LV. THE Surveyor or Surveyors of any County or Counties from which a new County hath been taken, or hereafter shall be taken, shall, within one month after such division takes place, make out, and on application, deliver to the Surveyor of the new County, attested copies of all entries made upon lands within such new County, on his books, and not surveyed, together with the warrants upon which they were founded; for which service, he shall receive five

(*a*) *May* '79, *ch.* 13, *sec.* 6. (*b*) 178[illegible], *ch.* 43, *sec.* 1. (*c*) 1784, *ch.* 51, *sec.* 2. (*d*) 1787, *ch.* 23, *sec.* 2. (*e*) 178[illegible], *ch.* 52, *sec.* 3.

cents for every ſuch atteſted copy, to be paid by the ſurveyor of the new County, upon receipt of the ſaid atteſted copies. And, in caſe any Surveyor ſhall refuſe or neglect to make out, or deliver ſuch atteſted copies of entries within the time aforeſaid, or at the expiration of the ſaid time, upon the application of the Surveyor of the new County, he ſhall forfeit and pay the ſum of one hundred and fifty dollars, to be recovered by action of debt or information, in any Court of record, by any perſon who will ſue for the ſame; any law to the contrary, notwithſtanding. *a*

Bounds of lands to be proceſſioned every fourth year, beginning in 1795.

LVI. THE Court of every County, at ſome Court between the firſt day of *June*, and the firſt day of *September*, which ſhall be in the year of our Lord, one thouſand ſeven hundred and ninety-five, and ſo between the firſt day of *June* and the firſt day of *September* in every fourth year thereafter, ſhall divide their Counties into ſo many precincts, as to them ſhall ſeem moſt convenient, for proceſſioning every perſon's land in their reſpective Counties, and ſhall appoint the particular times between the laſt day of *September* and the laſt day of *March*, then next coming, when ſuch proceſſioning ſhall be made in every precinct; and ſhall alſo appoint two or more intelligent, honeſt freeholders, of every precinct, to ſee ſuch proceſſioning performed, and to take and return to the ſaid Court, an account of every perſon's land they ſhall proceſſion, and of the perſons preſent at the ſame, and what lands in their precinct they ſhall fail to proceſſion, and the particular reaſons of ſuch failure; a copy of which order, ſhall be delivered by the Clerk of every Court, reſpectively, to the freeholders ſo appointed, within fifteen days after the making thereof; and the ſaid freeholders ſhall cauſe the ſame to be obeyed in every particular, and ſhall cauſe notice to be given at the moſt public places in their County, at leaſt three weeks before the ſame is to be performed, of the time appointed by them for proceſſioning, in each precinct; and the ſaid Court ſhall alſo cauſe the accounts returned by the freeholders, to be regiſtered in particular books to be kept for that purpoſe by their Clerk. Each proceſſioner ſhall be allowed by the Court of his County, fifty cents for every day he ſhall be employed in the buſineſs; and every County Court ſhall make a reaſonable allowance to the Clerk thereof, for the ſervices to be performed by him, by virtue of this Act; which ſeveral allowances ſhall be levied in their next County levy. *b*

Proceſſioners.

Allowance to them.

Penalty for failure on the court; on the perſons appointed to proceſſion.

LVII. AND that no perſon may pretend ignorance, the Court are alſo to direct what precinct or precincts in their County, reſpectively, every particular freeholder thereof ſhall attend and perform the proceſſioning as aforeſaid. And if any County Court ſhall fail to make ſuch order as aforeſaid, every Juſtice of the Peace of ſuch County, ſhall forfeit and pay twenty-five dollars. And if any freeholder ſhall fail to obey and execute ſuch order, every freeholder failing, ſhall forfeit and pay fifteen dollars; and any County Court Clerk, failing to perform his duty as directed by this Act, ſhall forfeit and pay twenty-five dollars.

On the clerk of the court.

On any other perſon.

LVIII. AND if any other perſon not having lawful excuſe (to be judged of by the County Court) ſhall fail to perform his duty as is herein before required, every perſon ſo failing, ſhall forfeit and pay fifteen dollars; one moiety of which ſeveral forfeitures ſhall be to the uſe of the poor of the County, and the other half to the informer, and may be recovered in any Court of record within this Commonwealth, having juriſdiction thereof.

How appropriated and recoverable.

What ſhall be deemed a ſufficient excuſe.

LIX. *PROVIDED always*, That in any ſuit, information, or petition brought againſt a Magiſtrate of a County, or any other perſon, for any breach of this act, where the defendant ſhall give ſufficient evidence to the Court, where the ſuit or information ſhall be depending, that he was neceſſarily abſent, or that, being preſent, he offered to do his duty, purſuant to this Act, in ſuch caſe the ſuit or information as to ſuch defendant ſhall be diſmiſſed.

Bounds proceſſioned three times ſhall never be altered.

Former proceſſions confirmed.

LX. ALL and every proceſſioning the bounds of any perſon's lands at three ſeveral times heretofore made according to the directions of the Laws then in force, or hereafter to be made purſuant to the directions of this Act, ſhall be held, and is hereby declared to be ſufficient to ſettle ſuch bounds, ſo as the ſame may never afterwards be altered; and every proceſſioning made in purſuance of, and conformably to the former Laws, ſhall be, and is hereby declared to be one of the three times of proceſſioning by this Act, held to be ſufficient.

(*a*) 1788, *ch.* 51. (*b*) 1748, *ch.* 1, *ſec.* 32. 1785, *ch.* 4, *ſec.* 4.

How disputed bounds shall be laid out where the parties refuse to have their lands processioned.

LXI. WHEN any controversy shall hereafter happen between persons, whose lands lie contiguous, about their respective bounds, and the owner or owners of such lands shall refuse to suffer the same to be processioned, in such case, the freeholders appointed as aforesaid, shall within ten days after such refusal, certify the same under their hands to the Court of the County wherein such lands shall lie at their next session, and such Court shall thereupon order their Surveyor with a Jury, to lay out the bounds in dispute at the charge of the party against whom the right to such bounds shall be determined, and to return such survey to the next Court, after the same shall be made, which return shall be recorded by the County Court Clerk.

Where the lands lie in two or more counties.

LXII. IF such lands shall happen to lie in two or more Counties, then certificate as aforesaid shall be returned to the Court of each County, and the Court of that County in which the beginning of such controverted bounds shall lie, shall order their Surveyor, with a Jury of their County, to survey the whole bounds in dispute, and the Sheriff of each County wherein the same shall lie, to attend the Surveyor in their respective Counties; and such survey shall be made, returned, recorded, and registered in the manner, and at the charge of the party against whom the right to such bounds shall be determined. And all and every survey and surveys, so as aforesaid made and registered, shall be held, deemed and taken to be a sufficient processioning of such lands, to all intents and purposes, as if the same had been done by, and with the consent of the owner thereof.

Heir in reversion or remainder may within six years after the death of tenant for life, controvert the bounds.

LXIII. *PROVIDED always*, That the processioning and settlement of the bounds of land held by any Tenant for life only, shall not bar or conclude the heir in reversion or remainder, but such heir may at any time within six years after the death of such Tenant, controvert the bounds as if no processioning or settlement had been made.

Also persons under legal disabilities.

LXIV. THE processioning and settling the bounds of lands belonging to any person, then being within the age of one and twenty years, *feme covert*, *non compos mentis*, imprisoned, or not resident within this Commonwealth, shall not be conclusive to such person or persons, until six years after their respective incapacities or disabilities shall be removed or determined.

Penalties how recoverable.

LXV. THE several penalties and forfeitures by this Act laid, given or inflicted, shall and may be recovered with costs, by action of debt, information, or petition, in any Court of Record within this Commonwealth, wherein such penalty or forfeiture shall be cognizable. *a*

Repealing clause. Proviso.

LXVI. ALL and every Act and Acts, clauses and parts of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, that all rights, remedies, fines, penalties and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made.

Commencement of this act.

LXVII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. LXXXVII.

An Act reducing into one, the several Acts concerning forcible Entries and Detainers.

[Passed the 3d of December, 1792.]

No lands or tenements to be entered or holden with force.

I. BE *it enacted by the General Assembly*, That none shall make any entry into any lands and tenements, or other possessions whatsoever, but in case where entry is given by the Law; and in such case not with strong hand, nor with multitude of people, but only in a peaceable and easy manner, and that none who shall have entered into the same in a peaceable manner, shall hold the same afterwards with force; and if any shall do to the contrary, on complaint thereof to any Justice or Justices of the Peace, such Justice or Justices shall take sufficient power of the County, and go to the place where such force is made; and all the people of the County, as well the Sheriff as others, shall be attendant upon the same Justices, to go and assist them to arrest such offenders, upon pain of imprisonment and amercement, at the discretion of a Jury.

Offenders to be arrested.

No warrant of forcible entry, &c. to be granted but on oath.

II. BUT no warrant of forcible entry and detainer, or of forcible detainer, shall hereafter be granted, unless upon the oath or affirmation of the party praying the same. *b*

(a) Oct. 1783, ch. 32, sec. 7. (b) 1788, ch. 15.

Offenders to have notice of the time and place of taking the inquiſition.

III. THE name or names of the perſon or perſons ſo charged, ſhall be inſerted in every ſuch warrant; and the Sheriff or other Officer to whom the ſame ſhall be directed, ſhall give reaſonable notice, of at leaſt three days, to ſuch perſon or perſons, of the time and place of taking the inquiſition. And no Jury ſhall be ſworn to enquire of any forcible entry or detainer, where ſuch previous notice hath not been given.

Juſtices to enquire by jury of the force, and to cauſe to be re-ſeized the lands ſo entered or holden.

IV. AND moreover, though ſuch perſons making ſuch entries be preſent, or elſe departed before the coming of ſuch Juſtice or Juſtices, notwithſtanding the ſaid Juſtice or Juſtices, in ſome convenient place, according to their diſcretion, ſhall have authority and power to enquire by the people of the ſame County, as well of them that make ſuch forcible entries in lands and tenements, as of them who hold the ſame with force; and if it be found before any of them, that any doth contrary to this Act, then the ſaid Juſtice or Juſtices ſhall cauſe to be re-ſeized, or to be re-poſſeſſed, the lands and tenements ſo entered or holden as afore, and ſhall put the party ſo put out, in full poſſeſſion thereof.

How the jury ſhall be ſummoned.

V. AND alſo when the ſaid Juſtice or Juſtices make ſuch enquiries as before, he or they ſhall make their warrants and precepts, to be directed to the Sheriff of the ſame County, commanding him on behalf of the Commonwealth, to cauſe to come before him or them, fit perſons to enquire of ſuch entries: and if any Sheriff be ſlack, and make not execution duly of the ſaid precepts to him directed, to make ſuch enquiries, he ſhall forfeit eighty dollars, recoverable before any Court of Record, as well by indictment or information, to be taken only for the Commonwealth, as by bill at the ſuit of the party grieved, as well for himſelf as for the Commonwealth; in which caſe one moiety of the ſaid eighty dollars ſhall be to the Commonwealth, and the other moiety, together with his coſts and expenſes, ſhall be to the party ſuing.

Penalty on the ſheriff for neglect.

Mayors, Aldermen, and Serjeants to have the ſame power as Juſtices and Sheriffs.

VI. AND moreover, Mayors, Aldermen, and Serjeants of Cities and Boroughs, ſhall have in the ſaid Cities and Boroughs, like power to remove ſuch entries, and in other articles aforeſaid ariſing within the ſame, as the Juſtices of Peace, and Sheriffs in Counties reſpectively have.

Reſtitution not to be made if the party indicted hath had three years poſſeſſion; to be ſtayed until that be tried.

VII. BUT no reſtitution upon any indictment of forcible entry, or holding with force, ſhall be made to any, if the party indicted hath had the occupation, or hath been in quiet poſſeſſion by the ſpace of three whole years together, next before the day of ſuch indictment ſo found, and his eſtate therein be not ended or determined; which the party indicted may alledge for ſtay of reſtitution, and reſtitution ſhall ſtay until that be tried, if the other will deny or traverſe the ſame; and if the ſame allegation be tried againſt the party ſo indicted, then the ſame party ſo indicted, ſhall pay ſuch coſts and damages to the other party, as ſhall be aſſeſſed by the Judges or Juſtices before whom the ſame ſhall be tried.

Party indicted to pay coſts and damages if it be found againſt him.

Tenants for years or by eligit to have the remedy as tenants of freehold eſtates.

VIII. TENANTS for terms of years, and Tenants by *elegit* of lands, or tenements by them ſo holden, which ſhall be entered upon by force, or holden from them by force, ſhall have the ſame remedy as Tenants of any eſtate of freehold or of inheritance.

Repealing clauſe.

IX. ALL and every Act, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this Act.

X. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. LXXXVIII.

An Act to prevent unlawful Hunting and Ranging.

[Paſſed the 4th of December, 1792.]

Penalty for hunting, fiſhing or fowling within the lands or tenements of another.

I. BE *it enacted*, That if any perſon or perſons, ſhall at any time ſhoot, hunt, or range upon the lands or tenements, or fiſh, or fowl in any creeks or waters included within the bounds of any other perſon or perſons, without licenſe firſt obtained of the owner of ſuch lands, every ſuch offender ſhall forfeit and pay three dollars for every ſuch offence, to be recovered with coſts, before any Juſtice of the Peace of the County where the offence ſhall be committed, by the Informer, to his own uſe; in which information, the confeſſion of the party accuſed, or the oath of one credible witneſs, ſhall be ſufficient evidence. And where the owner of the land ſhall proſecute for any unlawful ſhooting, hunting, ranging, fiſhing, or fowling within his bounds, the oath of ſuch owner ſhall be ſufficient evidence to convict the offender: but in that caſe the penalty ſhall be paid to the Overſeer of the poor of the Diſtrict wherein the offender reſides,

to the use of the poor of such District; and moreover, every such offender shall be liable to the action of the party grieved, at the common Law, for his or her damages. *a*

The offender also liable to action at the common law.

II. IF any person shall be the third time convicted of any such offence as aforesaid, the Justice of Peace before whom such conviction shall be, over and above giving judgment for the aforesaid forfeiture, shall require such offender to enter into recognizance, with one or more sufficient sureties, to the Governor, for the time being, and his successors, in the penalty of thirty dollars for his good behaviour, during one whole year from thence next following; or in case of refusal so to do, shall commit him to the common Jail, there to remain until he give such security, or until the expiration of one month. And if after such surety given, such offender shall be convicted of shooting, hunting, ranging, fishing, or fowling unlawfully as aforesaid, within the time in his recognizance limited, such offence shall be breach of the good behaviour, and the penalty of his recognizance shall be forfeited to the Overseers of the poor, for the use of the poor of the District wherein such conviction shall be. *a*

Upon a third conviction the offender besides paying the penalty, shall be bound to his good behaviour or committed.

Conviction of such offence after security given, shall be a breach of the good behaviour.

III. ALL and every Act or Acts, within the purview of this Act, shall be, and the same are hereby repealed.

Repealing clause.

IV. THIS Act shall commence in force, from and after the passing thereof.

Commencement of this act.

CHAP. LXXXIX.

An Act to reduce into one, the several Acts for the better securing the payment of Rents, and preventing the fraudulent Practices of Tenants; and to Regulate the Practice of suing out and prosecuting Writs of Replevin.

[Passed the 29th of November, 1792.]

I. BE *it enacted by the General Assembly*, That where any goods or chattels shall be distrained for any rent, reserved and due upon any demise, lease or contract whatsoever, and the Tenant or Owner of the goods so distrained, shall not within ten days after such distress taken, and notice thereof, and the cause of such taking left at the chief mansion house, or other most notorious place on the premises, charged with the rent distrained for, replevy the same, by sufficient security given to the Sheriff or Officer serving such distress, to pay the money or tobacco, and all costs, with lawful interest for the same, at the end of three months; in such case, such Sheriff or Officer shall and may sell the goods and chattels so distrained for, by public auction, to the highest bidder, either for money or tobacco, according as the rent reserved shall be due and payable, to be paid at the end of three months; and shall take bond of the buyer or buyers, with one or more sufficient securities, to pay the same accordingly, with interest to the landlord for whom the distress was made. *b* †

The method of proceeding in distresses for rent.

II. ALL and every bond and bonds, so taken in pursuance of this act, shall mention that the same was or were entered into for goods or other estate distrained for rent, and restored to the debtor, or sold to the obligor, (as the case shall be) and before the expiration of the said three months, shall be delivered to the landlord for whom distress was made. And if the money or tobacco shall not be paid according to the condition of any such bond, it shall be lawful, and full power and authority, is hereby given to the Justices of the Court where such bond shall be lodged, upon motion of the party to whom the same is payable, to award execution thereupon, with costs, provided the obligors have ten days notice of such motion; and upon such execution, the Sheriff or Officer shall not take any sureties for payment of the money or tobacco at a further day, but shall levy the same immediately. And for the better direction of such Sheriff or Officer, the Clerk shall endorse upon the back of every such execution, that "no security is to be taken." *c*

Tenor of the bonds to be taken in pursuance of this act.

Mode of proceeding for the recovery of the money due thereon.

III. *PROVIDED always*, That when distress shall be made for tobacco, between the last day of *September*, and the last day of *December* in any year, and the goods distrained shall not be replevied as aforesaid, such goods shall be sold, and security taken for paying the tobacco by the first day of *January*, then next ensuing; and the bonds taken for the same, and costs of seizure and sale,

Where the distress is made for tobacco between the 30th of September and the 31st of December.

(*a*) 22, *Geo.* 2, *ch.* 1, *sec.* 63, 64. (*b*) 1748, *ch.* 10, *sec.* 1. † *By act of* 1800, *ch.* 10, *ch.* 12, *in case the property be replevied, officers allowed the same commission for taking forthcoming bond.* (*c*) 1748, *ch.* 8, *sec.* 14.

ſhall be by the Officer delivered to the landlord for whom diſtreſs was made; which laſt mentioned bonds ſhall have the like force, and may be proceeded upon in the ſame manner, as any other bond directed to be taken by this Act *a*

Remedy in caſe of wrongful diſtreſs.

IV. IN caſe any diſtreſs and ſale ſhall be made, under colour of this Act, for rent pretended to be in arrear and due, where in truth no rent is in arrear or due to the perſon or perſons diſtraining, or to him, her, or them in whoſe name or names, or right, ſuch diſtreſs ſhall be taken as aforeſaid, then the owner of the goods and chattels ſo diſtrained and ſold, his executors or adminiſtrators, ſhall have remedy, by action of treſpaſs, or upon the caſe, againſt the perſon and perſons ſo wrongfully diſtraining, or either of them, his, her, or their executors and adminiſtrators, and ſhall recover double the value of the goods and chattels ſo diſtrained and ſold, together with full coſts of ſuit. *a*

Treble damages upon pound breach or reſcous.

V. UPON any pound breach, or reſcous, of goods or chattels, diſtrained for rent, the perſon or perſons grieved thereby, ſhall, in a ſpecial action upon the caſe, for the wrong thereby ſuſtained, recover treble damages, with coſts of ſuit, againſt the offender and offenders, in any ſuch reſcous or pound breach, or either of them, or againſt the owner of the goods diſtrained, in caſe the ſame be afterwards found to have come to his or her uſe or poſſeſſion. *a*

Goods upon leaſehold lands not to be taken in execution until the rent in arrear be paid.

VI. NO goods or chattels whatſoever, lying or being in or upon any meſſuage, lands, or tenements, which are or ſhall be leaſed for life or lives, term of years, at will, or otherwiſe, ſhall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatſoever, unleſs the party ſo taking the ſame, ſhall, before removal of the goods from off ſuch premiſes, pay or tender to the landlord or leſſor thereof, or his agent, all the money or tobacco due for the rent of the ſaid premiſes, at the time of taking ſuch goods or chattels in execution. *a*

Proviſo.

VII. *PROVIDED nevertheleſs*, That ſuch rent arrear do not amount to more than one year's rent; and if more be due, then the party ſuing out ſuch execution, paying or tendering to ſuch landlord, or his agent, one year's rent, may proceed to execute his judgment: And the Sheriff or Officer ſerving the ſame, is hereby empowered and required, to levy and pay to the Plaintiff, as well the money or tobacco ſo paid for rent, as the execution money. *a*

Where the landlord ſuſpects his Tenant will remove, he may have an attachment.

VIII. WHERE any landlord ſhall have ſufficient grounds to ſuſpect that his Tenant will remove with his effects out of the County or Corporation, before the expiration of his term, ſo as no diſtreſs for the ſaid rent can be made, it ſhall be lawful for ſuch landlord to go before any Juſtice of the Peace of the County or Corporation, where the lands leaſed do lie, and make oath what rent the Tenant is to pay, and at what time the ſame will be due, and that he has juſt cauſe to ſuſpect, and verily believes ſuch Tenant will remove his or her effects out of the County or Corporation before time of payment; and thereupon ſuch Juſtice may, and he is hereby empowered and required, to iſſue an attachment againſt the goods and chattels of ſuch Tenant, returnable to his next County or Corporation Court; and if ſuch Tenant ſhall not, at the time of ſerving ſuch attachment, or before, or at ſuch next Court, enter into recognizance, with one or more ſufficient ſecurities, for the payment of the ſaid rent at the time it ſhall become due, it ſhall be lawful for ſuch Court, and they are hereby required to order the goods attached to be ſold by the Sheriff or Serjeant at public auction, for money or tobacco according to the reſervation of the rent, to be paid at the time the rent ſhall become due, the purchaſers giving good ſecurity for ſuch payment, and to aſſign the bonds taken for the ſame, and the coſts to ſuch landlord; and the overplus of ſuch ſale, if any beſides the charges of attachment and ſale, to return to the owner. *a*

Goods carried off the premiſes may be ſeized within ten days thereafter.

IX. IN caſe any leſſee for life or lives, term of years, at will, or otherwiſe, of meſſuages, lands or tenements, upon the demiſe whereof any rents are or ſhall be reſerved, or made payable, ſhall at any time fraudulently or clandeſtinely convey or carry off or from ſuch demiſed premiſes, his goods or chattels, with intent to prevent the landlord or leſſor from diſtraining the ſame for arrears of rent ſo reſerved, it ſhall be lawful for ſuch leſſor or landlord, or any perſon or perſons by him for that purpoſe lawfully empowered, within ten days next after ſuch conveying away or carrying off ſuch goods and chattels, to take and ſeize the ſame wherever they ſhall be found, as a diſtreſs for the arrears of ſuch rent, and the ſame to ſell in like manner as if they actually had been diſtrained by ſuch leſſor or landlord in and upon the demiſed premiſes. *a*

(*a*) 1748, 10, *ſec.* 2, 3, 4, 5, 6, 7, 8.

But not if sold before seizure.

X. *PROVIDED always*, That no goods or chattels so carried off, and *bona fide* sold for a valuable consideration before such seizure made, shall be afterwards liable to be so taken or seized for any arrears of rent. *a*

Rent arrear upon lease for life recoverable by action of debt.

XI. ANY person or persons having rent in arrear, or due upon any lease or demise for life or lives, may bring an action or actions of debt for such arrears of rent, in the same manner as if such rent were due and reserved upon a lease for years. *a*

How rent arrear may be distrained for after determination of the lease.

XII. IT shall be lawful for any person or persons having rent in arrear, or due upon any lease for life or lives, or for years, or at will, ended or determined, to distrain for such arrears after the determination of the respective leases, in the same manner as if such lease or leases had not been determined. *a*

Proviso.

XIII. *PROVIDED*, That such distress be made within six months after the determination of such lease, and during the continuance of such landlord's title or interest, and during the possession of the Tenant from whom such arrears became due. And no distress for rent shall be made in any case whatsoever, but within five years after such rent shall have become due and in arrear. *a*

Saving debts due to the commonwealth.

XIV. *PROVIDED also*, That nothing in this act contained, shall extend or be construed to let, hinder, or prejudice the Commonwealth, in the levying, recovering, or seizing any debts, fines, penalties, or forfeitures due, payable or answerable to the Commonwealth; but that the same may be levied, recovered and seized, in the same manner as if this Act had never been made. *a*

No writ of replevin to be issued until bond & security be given.

XV. AND whereas very great and unjust delays have arisen from the suing out writs of replevin, in cases of goods distrained for rent: For remedy whereof, *Be it enacted*, that before any writ of replevin shall be granted in case of goods and chattels distrained for rent, the person or persons praying such writ shall enter into bond, with one or more sufficient securities, in the Clerk's office, in the penalty of at least double the value of the rent distrained for, and costs of suit, to perform and satisfy the judgment of the Court in such suit, in case he, she, or they shall be cast therein; and if upon the trial of such suit, it shall be found that the rent distrained for, was justly due, the party injured or delayed by suing forth the said writ, shall recover against the party suing forth and prosecuting the same, double the value of the rent in arrear and distrained for, with full costs of suit. And upon any execution issued upon such judgment, the Clerk shall in like manner endorse, that "no security is to be taken." *b*

Rent being found due, the party delayed to recover double the value.

Person other than the tenant may sue out writ of replevin, and if cast shall pay double the rent.

XVI. WHERE any person shall suggest that the goods distrained, are his or her property, and not the property of the Tenant, nor held in trust for the use of the Tenant in any manner whatsoever, and that the same in his or her opinion are not liable to such distress, he or she giving bond and security, in manner herein before directed, may sue out a writ of replevin for such goods, but not otherwise; and in case the person or persons suing out the said writ, shall be cast in such suit, judgment shall be given against him for double the value of the rent in arrear and distrained for, with full costs as aforesaid. *b*

Suits in replevin to be speedily tried.

XVII. AND for the more speedy determination of such writs of replevin:

XVIII. *Be it further enacted*, That every such writ shall be returnable to the next Court after the same shall be issued, and such Court shall at their next sitting after the return, cause an issue to be made up therein, which shall be tried at the following Court, without waiting for its turn in the order of priority in regard to other suits. *b*

Grantees of lands, or the reversions, to have the same right of entry for non-payment of rent, &c. as the original lessors.

XIX. ALL persons being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof, from any person or persons, and the heirs, executors, and administrators and assigns of such grantees or assignees, shall and may have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of the rent, or for doing of waste, or other forfeitures, and also shall and may have and enjoy all and every such like covenants and agreements, contained and expressed in the indentures of their said leases, demises or grants, against all the said lessees, their executors, administrators, and assigns, as the said lessors themselves, or their heirs ought, should, or might have had, or enjoy at any time or times.

Lessees of lands to have the same actions and

XX. ALL lessees of any lands, tenements, or hereditaments, for a term of years, life or lives, their executors, administrators or assigns, shall and may hav

(*a*) 1748, *ch.* 10, *sec.* 9, 10, 11, 12, 13. (*b*) 1763, *ch.* 1, *sec.* 1, 2, 3.

advantages of covenants, &c. againſt the grantees of reverſions as againſt the original leſſors.

like action, advantage againſt all and every perſon and perſons, their heirs and aſſigns, which have, or ſhall have any gift or grant of the reverſion of the ſaid lands, tenements, or hereditaments, ſo letten, or any parcel thereof, for any condition, covenant, or agreement contained or expreſſed in the indentures of their leaſe and leaſes, as the ſame leſſees or any of them, might and ſhould have had againſt the ſaid leſſors and their heirs: all benefit and advantage of recoveries in value by reaſon of any warranty in deed or in Law, only excepted.

Executors and Adminiſtrators may maintain debt againſt a tenant or his executors for rent due to their teſtator, or may diſtrain during the tenants' ſeiſin or poſſeſſion.

XXI. THE executors and adminiſtrators of any perſon unto whom any rent is or ſhall be due, and not paid at the time of his death, ſhall and may have an action of debt for all ſuch arrearages againſt the Tenant or Tenants, that ought to have paid the ſaid rent ſo being behind in the life of their Teſtator, or againſt the executors or adminiſtrators of ſuch Tenants; and alſo furthermore, it ſhall and may be lawful for every ſuch executor and adminiſtrator of any ſuch perſon, to whom ſuch rent is or ſhall be due and not paid at the time of his death, to diſtrain for the arrearages of all ſuch rents, on the lands, tenements, and other hereditaments, which were charged with the payment of ſuch rents, and chargeable to the diſtreſs of the ſaid teſtator, or inteſtate, ſo long as the ſame continue, remain, and be in the ſeizin or poſſeſſion of the ſaid Tenant in demeſne, who ought immediately to have paid the ſaid rent, ſo being behind to the ſaid teſtator or inteſtate in his life time, or in the ſeizin or poſſeſſion of any perſon or perſons claiming the ſaid lands, tenements, and hereditaments, only by and from the ſaid Tenant by purchaſe, gift, or deſcent, in like manner and form as their ſaid teſtator might or ought to have done in his life time; and the ſaid executors and adminiſtrators for the ſame diſtreſs, lawfully may make avowry upon the matter aforeſaid. *a*

Huſband having a fee ſimple or eſtate for life in right of his wife may after her death maintain debt, or diſtrain for rent accruing during her life.

XXII. If any man which now hath or hereafter ſhall have in the right of his wife any eſtate in fee ſimple, or for term of life, of, or in any rents or fee farms, and the ſame rents or fee farms now be or hereafter ſhall be due, behind and unpaid in the ſaid wife's life, then the ſaid huſband after the death of his ſaid wife, his executors and adminiſtrators, ſhall have an action of debt for the ſaid arrearages, againſt the Tenant of the demeſne, that ought to have paid the ſame, his executors or adminiſtrators, and alſo the ſaid huſband, after the death of his ſaid wife, may diſtrain for the ſaid arrearages, in like manner and form as he might have done, if his ſaid wife had been then living, and make avowry upon his matter as is aforeſaid.

Executors and Adminiſtrators may maintain debt or diſtrain for rent due to their teſtators although the tenants eſtate be determined.

XXIII. THE executors and adminiſtrators of any perſon or perſons having rent in arrear or due upon any demiſe or leaſe, for life or lives, or for years, or at will, although the ſame be determined, ſhall and may have the like remedy by action of debt, or by diſtreſs, againſt the perſon who ought to have paid the ſame, his or her executors or adminiſtrators, as the teſtator if living, might or could have had.

Goods diſtrained not to be removed out of the county.

XXIV. IT ſhall not be lawful for any perſon taking any diſtreſs to drive or remove the ſame out of the County where ſuch diſtreſs was taken: And whoſoever doth ſo, ſhall be amerced at the diſcretion of a Jury; moreover, diſtreſſes ſhall be reaſonable and not too great, and he that taketh great and unreaſonable diſtreſſes, ſhall be amerced for the exceſs of ſuch diſtreſſes. *b*

Repealing clauſe.

XXV. ALL and every Act and Acts, clauſes and parts of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Proviſo.

XXVI. *PROVIDED*, that all rights and remedies given by every ſuch Act or Acts, and all ſuch parts of Acts, ſhall be, and remain as if this Act had not been made.

Commencement of this act.

XXVII. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. XC.

An Act for Regulating Conveyances.

[Paſſed the 13th of December, 1792.]

No eſtate of freehold in lands or tenements to paſs but by deed.

I. BE *it enacted by the General Aſſembly*, That no eſtate of inheritance, or freehold, or for a term of more than five years, in lands or tenements,

(a) From ſtat. 20, 32. *H.* 8, *ch.* 37. *(b) From* 52, *H.* 3, *ch.* 4.

shall be conveyed from one to another, unless the conveyance be declared by writing, sealed, and delivered; nor shall such conveyance be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same writing be acknowledged by the party or parties who shall have sealed and delivered it, or be proved by three witnesses to be his, her, or their act, before the General Court, or the Court of that District, County, City, or Corporation in which the land conveyed, or some part thereof lieth, or in the manner herein after directed, within eight months after the time of sealing and delivering, and be lodged with the Clerk of such Court to be there recorded. *a*†

How, when and where such deeds must be acknowledged or proved, and recorded.

II. NO covenant or agreement made in consideration of marriage, shall be good against a purchaser for valuable consideration, not having notice thereof, or any creditor, unless the same covenant or agreement be acknowledged by the party bound thereby, or be proved by three witnesses, to be his, her, or their act, if land be charged, before the General Court, or the Court of that District or County in which the land or part thereof lieth, or if personal estate only be settled or covenanted, or agreed to be paid or settled, before the Court of that District, County, City, or Corporation, in which such party shall dwell, or in the manner herein after directed, within eight months after the covenant or agreement made, and be lodged with the Clerk of such Court, to be there recorded. *a*

How, when and where covenants and agreements in consideration of marriage must be acknowledged, or proved and recorded.

III. WHEN any such deed or conveyance shall be acknowledged or proved in Court, in order to their being recorded, the livery of seizin thereupon made, in such cases where the same is by Law required, shall in like manner be acknowledged or proved, and shall be recorded together with the deed or conveyance whereupon it shall be made. *b*

Livery of seizen to be recorded with the deed.

IV. ALL bargains, sales, and other conveyances, whatsoever, of any lands, tenements, or hereditaments, whether they be made for passing any estate of freehold, or inheritance, or for term of years, and all deeds of settlement upon marriage, wherein either lands, slaves, money, or other personal thing shall be settled or covenanted to be left, or paid at the death of the party or otherwise, and all deeds of trust and mortgages whatsoever, which shall hereafter be made and executed, shall be void as to all creditors and subsequent purchasers, unless they shall be acknowledged or proved, and recorded according to the directions of this Act; but the same as between the parties and their heirs, shall nevertheless be valid and binding.‡ *b*

All conveyances, settlements, trusts, & mortgages of lands and chattels, void as to creditors and subsequent purchasers if not recorded. But binding between the parties.

V. IF the party who shall sign and seal any such writing, reside not in *Virginia*, or in the District or County where the lands conveyed lie, the acknowledgment by such party, or the proof by the number of witnesses requisite, of the sealing and delivering of the writing, before any Court of Law, or the Mayor or other Chief Magistrate of any City, Town, or Corporation of the County in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them, and offered to the proper Court to be recorded within eighteen months after the sealing and delivering, where the party resides out of this Commonwealth, and within eight months after the sealing and delivery where the party resides within this Commonwealth, shall be as effectual as if it had been in the last mentioned Court. *c*

How deeds may be acknowledged or proved where the grantor resides out of the state, or the district or county wherein the lands lie.

VI. WHEN husband and wife have sealed and delivered a writing, purporting to be a conveyance of any estate or interest, if she appear in Court, and being examined privily and apart from her husband, by one of the Judges thereof, shall declare to him that she did freely and willingly seal and deliver the said writing to be then shewn and explained to her, and wishes not to retract it, and shall before the said Court acknowledge the said writing, again shewn to her, to be her act, or if before two Justices§ of the Peace of that County in which she dwelleth, if her dwelling be in the United States of *America*, who may be empowered by commission, to be issued by the Clerk of the Court wherein the

Deed by husband & wife acknowledged in court, or before two justices empowered by commission to receive her acknowledgment, shall pass the estate of the wife, if she resides within the United States.

(a) From 1785, *ch.* 62. † *Deeds partly proved in Gen. Court, may be either fully proved there, or sent to the court of the district or county where the lands lie, for further proofs—see Gen. Ct. law, acts* '92, *ch.* 13. *(b)* 1748, *ch.* 1, *sec.* 2, 4. ‡ *See act to prevent frauds, &c. part of* 2*d sec. which allows a conveyance of goods and chattels* only *to be recorded on proof of two witnesses; but I suppose that this sec. excepts deeds of trust and mortgages. (c) From* 1785, *ch.* 62. § *By act of* 1796, *ch.* 13, *sec.* 2, *the power hereby given to justices of counties, is also extended to magistrates of corporate towns.*

writing ought to be recorded, to examine her privily, and take her acknowledgment; the wife being examined privily and apart from her husband, by those commissioners, shall declare that she willingly signed and sealed the said writing, to be then shewn and explained to her by them, and consenteth that it may be recorded, and the said commissioners shall return with the commission, and thereunto annexed a certificate under their hands and seals of such privy examination by them, and of such declaration made, and consent yielded by her, in either case the said writing, acknowledged also by the husband, or proved by witnesses to be his act, and recorded together with such her privy examination and acknowledgment before the Court, or together with such commission and certificate, shall not only be sufficient to convey or release any right of dower thereby intended to be conveyed or released, but be as effectual for every other purpose as if she were an unmarried woman. *a*

To whom the commission must be directed if she resides out of the United States.

VII. IF the dwelling of the wife be not in the United States of *America*, the commission to examine her privily and take her acknowledgment, shall be directed to any two Judges or Justices of any Court of Law, or to the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the wife shall dwell, and may be executed by them in the same manner as a commission directed to two Justices in the United States of *America*; and the certificate of the Judges or Justices of such Court, or the certificate of such Mayor or Chief Magistrate authenticated in the form and with the solemnity by them used in other acts, shall be as effectual as the like certificate of the Justices in the United States of *America*. And whereas it has always been adjudged, that when a deed has been acknowledged by a *feme covert*, and no record made of her privy examination, such deed is not binding on the *feme* or her heirs, it is therefore declared, that the Law herein shall always be held according to the said judgments; and the Clerks of the Courts before whom any deed of a *feme covert* shall be acknowledged, shall always hereafter record her privy examination. *a*

Privy examinations of femes covert void if not recorded.

In what manner writings acknowledged or proved in courts shall be recorded.

VIII. THE Clerk of every Court shall record all writings acknowledged or proved before such Court, or certified to have been acknowledged and proved in manner before prescribed, together with the commissions for privily examining and taking the acknowledgments of married women, and all endorsements on such writings, and plats, schedules and other papers thereto annexed, by entering them word for word in well bound books, to be carefully preserved, and afterwards re-deliver them to the parties entitled to them, and shall moreover make a docket of all such writings, containing the dates thereof, and of the acknowledgments and probats, the names, surnames, and additions of the parties thereto in alphabetical order, and the quantities and situations of land, numbers and names of slaves, and descriptions of personal estate conveyed thereby; and the Clerk of every District or County Court, shall transmit such docket made by him to the Clerk of the General Court, on or before the first of *October* annually, to be recorded by him. *a*

Memorials of such writings recorded in the district & county courts, to be recorded in the general court.

Persons having estates tail, to stand seized in fee simple.

IX. EVERY estate in lands or slaves, which on the seventh day of *October*, in the year of our Lord one thousand seven hundred and seventy-six, was an estate in fee tail, shall be deemed from that time to have been, and from thenceforward to continue an estate in fee-simple: And every estate in lands, which since hath been limited, or hereafter shall be limited, to that as the Law aforetime was, such estate would have been an estate tail, shall also be deemed to have been, and to continue an estate in fee-simple. And all estates which before the said seventh day of *October*, one thousand seven hundred and seventy-six, by the Law, if it remained unaltered, would have been estates in fee-tail, and which now by virtue of this Act, are, and will be estates in fee-simple, shall from that time and henceforth be discharged of the conditions annexed thereto by the common Law, restraining alienations before the donee shall have issue, so that the donees or persons in whom the conditional fees vested, or shall vest, had and shall have the same power over the same estates, as if they were pure and absolute fees. *a*

Proviso respecting such estates as have or may become escheatable for defect of blood.

X. *PROVIDED always*, That all estates in lands or slaves which have become, or shall hereafter become escheatable to the Commonwealth, by virtue of the Act, intituled, "*An Act declaring tenants of lands or slaves in tail, to hold the same in fee-simple*," or of this Act; for defect of blood, shall descend, and be deemed to have descended agreeable to the limitations of the deed or will creating such estates. *b*

(a) 1785, *ch.* 62. *(b)* *May* 1783, *ch.* 27.

XI. *PROVIDED alſo*, That nothing in this Act contained, ſhall be conſtrued to reſtrain any Tenant of ſuch lands or ſlaves, from ſelling or conveying the ſame by deed in his or her lifetime, or diſpoſing thereof by his or her laſt will and teſtament, and that all ſuch eſtates ſhall remain liable to the debts of the Tenants in the ſame manner as lands and ſlaves held in fee-ſimple: *Provided moreover*, that this Act ſhall not extend to any lands or ſlaves which have been eſcheated and ſold for the uſe of the Commonwealth. *a*

Such eſtates may be diſpoſed of by will or deed, and ſhall be ſubject to debts in the ſame manner as eſtates in fee-ſimple.

XII. EVERY eſtate in lands which ſhall hereafter be granted, conveyed, or deviſed to one, although other words heretofore neceſſary to transfer an eſtate of inheritance be not added, ſhall be deemed a fee-ſimple, if a leſs eſtate be not limited by expreſs words, or do not appear to have been granted, conveyed, or deviſed by conſtruction or operation of Law. *b*

Every eſtate conveyed or deviſed to be deemed a fee-ſimple unleſs a leſs eſtate be limited.

XIII. WHERE an eſtate hath been, or ſhall be by any conveyance limited in remainder to the ſon or daughter, of or to the uſe of the ſon or daughter of any perſon, to be begotten, ſuch ſon or daughter born after the deceaſe of his or her father, ſhall take the eſtate in the ſame manner as if he or ſhe had been born in the lifetime of the father, although no eſtate ſhall have been conveyed to ſupport the contingent remainder after his death. *b*

When a contingent remainder ſhall be good, although there be no intermediate eſtate.

XIV. BY deed of bargain and ſale, or by deeds of leaſe and releaſe, or by covenant to ſtand ſeized to uſe, or deed operating by way of covenant to ſtand ſeized to uſe, the poſſeſſion of the bargainor, releaſor, or covenantor, ſhall be deemed heretofore to have been, and hereafter to be transferred to the bargainee, releaſee, or perſon entitled to the uſe, for the eſtate or intereſt which ſuch perſon hath, or ſhall have in the uſe, as perfectly as if ſuch bargainee, releaſee, or perſon entitled to the uſe had been enfeoffed, with livery of ſeizin of the land intended to be conveyed by ſuch deed or covenant. *b*

By what conveyances the poſſeſſion of the grantor ſhall be transferred to the grantee without livery of ſeizen.

XV. ESTATES of every kind holden or poſſeſſed in truſt, ſhall be ſubject to like debts and charges of the perſons to whoſe uſe, or for whoſe benefit they were, or ſhall be, reſpectively holden or poſſeſſed, as they would have been ſubject to, if thoſe perſons had owned the like intereſt in the things holden or poſſeſſed, as they own or ſhall own in the uſes or truſts thereof. *b*

Truſt eſtates ſubject to debts and charges as if the perſon held the like intereſt in the thing holden, as in the uſe thereof.

XVI. WHERE any perſon to whoſe uſe, or in truſt for whoſe benefit another is or ſhall be ſeized of lands, tenements, or hereditaments, hath or ſhall have ſuch inheritance in the uſe or truſt, as that if it had been a legal right, the huſband or wife of ſuch perſon would thereof have been entitled to curteſy or dower, ſuch huſband or wife ſhall have and hold, and may by the remedy proper in ſimilar caſes, recover curteſy or dower of ſuch lands, tenements, or hereditaments. *b*

Truſt eſtates ſubject to dower and curteſy.

XVII. GRANTS of rents, or of reverſions, or remainders, ſhall be good and effectual without attornments of the Tenants, but no Tenant who, before notice of the grant, ſhall have paid the rent to the grantor, ſhall ſuffer any damage thereby. *b*

Grants of rents, reverſions, &c. good without attornments.

XVIII. THE attornment of a Tenant to any ſtranger ſhall be void, unleſs it be with conſent of the Landlord of ſuch Tenant, or purſuant to, or in conſequence of the judgment of a Court of Law, or the order or decree of a Court of Equity. *b*

When attornment to a ſtranger ſhall be void.

XIX. ALL conveyances by Commiſſioners and Sheriffs hereafter to be made for lands ſold in virtue of any decree or judgment of any Court within this Commonwealth, ſhall be, and they are hereby declared to be good and effectual, for paſſing the abſolute title of ſuch lands to the purchaſers thereof, and all perſons claiming under them, any Law to the contrary notwithſtanding; ſaving to the Commonwealth, and to all and every perſon and perſons, bodies politic and corporate, their reſpective heirs and ſucceſſors, other than the parties to ſuch conveyances, decrees or judgments, and thoſe claiming under them, all ſuch right, title, intereſt and demand, as they, every or any of them, would have had in caſe this Act had not been made.

Conveyances by commiſſioners and ſheriffs under decrees and judgments of courts effectual for paſſing the title.

XX. ALL and every Act and Acts, clauſe and clauſes of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, That nothing herein contained ſhall be conſtrued to affect any right which may have accrued, or been veſted before the commencement of this Act.

Repealing clauſe.

XXI. THIS Act ſhall commence in force, from and after the paſſing thereof.

Commencement of this act.

(*a*) *May* 1783, *ch.* 27. (*b*) 1785, *ch.* 62.

CHAP. XCI.

An Act reducing into one, the several Acts concerning the Manner of authenticating Foreign Deeds, Records, and other Instruments in Writing.

[Passed the 8th of December, 1792.]

Preamble.

I. WHEREAS the intercourse between this State and the other States in the Union, and between this State and Foreign Nations, has become more considerable than heretofore, which renders it necessary that some mode should be adopted, to give authenticity to deeds and certain other instruments in writing, foreign judgments, specialties on record, registers of births and marriages, made, executed, entered into, given and enregistered by and between persons residing in any of the United States, or in any Foreign Kingdom, State, Nation, or Colony, beyond sea, and out of the jurisdiction of this State: *a*

How foreign deeds & other instruments of writing must be authenticated to be admitted as evidence.

II. *BE it enacted by the General Assembly*, That all such deeds, if acknowledged by the party making the same, or proved by the number of witnesses requisite before any Court of Law, or the Mayor, or other Chief Magistrate of any City, Town, or Corporation of the Country in which the party shall dwell, certified by such Court, or Mayor, or Chief Magistrate, in the manner such acts are usually authenticated by them; and all policies of insurance, charter parties, powers of attorney, foreign judgments, specialties on record, registers of births and marriages, as have been, or shall be made, executed, entered into, given and enregistered in due form, according to the Laws of such State, Kingdom, Nation, Province, Island or Colony, and attested by a Notary Public, with a testimonial from the proper Officer of the City, County, Corporation, or Borough, where such Notary Public shall reside, or the great Seal of such State, Kingdom, Province, Island, Colony, or Place beyond sea, shall be evidence in all the Courts of Record within this Commonwealth, as if the same had been proved in the said Courts. *b*

Repealing clause.

III. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this Act contained, shall be construed in any manner to alter the method of taking and certifying the privy examination of any *feme covert*, or in any other respect to alter or repeal the Act, intituled, "*An Act for regulating Conveyances.*"

Proviso.

Commencement of this act.

IV. THIS Act shall commence in force, from the passing thereof.

CHAP. XCII.

An Act reducing into one, the several Acts concerning Wills, the Distribution of Intestates Estates, and the duty of Executors and Administrators.

[Passed the 13th of December, 1792.]

Who may dispose of their lands and tenements by will.

I. BE *it enacted by the General Assembly*, That every person aged twenty-one years or upwards, being of sound mind, and not a married woman, shall have power at his will and pleasure, by last will and testament in writing, to devise all the estate, right, title, and interest in possession, reversion or remainder, which he hath, or at the time of his death shall have, of, in, or to lands, tenements or hereditaments, or annuities or rents charged upon, or issuing out of them, so as such last will and testament be signed by the testator, or by some other person in his presence, and by his direction; and moreover, if not wholly written by himself, be attested by two or more credible witnesses, subscribing their names in his presence. *c*

Devises of lands or tenements must be in writing. How to be attested.

Saving to widows their dower.

II. SAVING to the widows of testators their dower in such lands, tenements, rents, or annuities, according to the Laws, which shall not be prejudiced by any devise thereof. *c*

How such devises may be revoked.

III. NO devise so made, or any clause thereof, shall be revocable but by the Testator's destroying, cancelling, or obliterating the same, or causing it to be done in his presence, or by a subsequent will, codicil, or declaration in writing made as aforesaid. But every last will and testament, made when the Testator had no child living, wherein any child he might have is not provided for, or mentioned, if at the time of his death he leave a child, or leave his wife enseint

A will made when the testator had no children not to affect those born afterwards.

(*a*) 1787, *ch.* 21, *sec.* 4, 5. (*b*) 1785, *ch.* 12. 1787, *ch.* 21. (*c*) 1785, *ch.* 61, *sec.* 1, 2.

of a child, which shall be born, shall have no effect during the life of such after born child, and shall be void, unless the child die without having been married, or before he or she shall have attained the age of twenty-one years. When a Testator shall leave children born, and his wife enseint, the posthumous child or children, if it be unprovided for by settlement, and be neither provided for nor disinherited, but only pretermitted by the last will and testament, shall succeed to the same portion of the father's estate, as such child would have been entitled to, if the father had died intestate; towards raising which portion, the devisees and legatees shall contribute proportionably, out of the parts devised and bequeathed to them by the same will and testament. *a*

A posthumous child pretermitted in his father's will, to have the same portion of his estate as if he had died intestate.

IV. NO person under the age of eighteen years, shall be capable of disposing of his chattels by will. *a*

No person under the age of 18 to dispose of his chattels by will.

V. NO nuncupative will shall be established, unless it be made in the time of the last sickness of the deceased at his habitation, or where he hath resided for ten days next preceding, except where the deceased is taken sick from home, and dies before he returns to such habitation; nor where the value exceeds thirty dollars, unless it be proved by two witnesses, that the Testator called on some person present to take notice or bear testimony that such is his will, or words of the like import. *a*

Rules concerning nuncupative wills.

VI. AFTER six months have elapsed from the time of speaking the pretended testamentary words, no testimony shall be received to prove a nuncupative will, unless the testimony, or the substance thereof, shall have been committed to writing within six days after making the will. *a*

Where they shall not be of force.

VII. NO will in writing, or any devise therein of chattels, shall be revoked by a subsequent will, codicil, or declaration, unless the same be in writing. *a*

How devises of chattels may be revoked.

VIII. ANY soldier in actual military service, or any mariner or seaman being at sea, may dispose of his chattels as he might heretofore have done. *a* †

Soldiers and seamen may dispose of their chattels as heretofore.

IX. IF any person shall subscribe his name as a witness to a will wherein any bequest is given to him, if the will may be not otherwise proved, the bequest shall be void, and such witness shall be allowed and compellable to appear, and give testimony on the residue of the will, in like manner as if no such bequest had been made. But if such witness would be entitled to any share of the Testator's estate in case the will were not established, so much of his said shares shall be saved to him, as shall not exceed the value of the legacy bequeathed him. *a*

Where bequests to the witnesses shall be void.

X. THE several District, County, or Corporation Courts, shall have power to hear and determine all causes, matters, suits and controversies testamentary, arising within their respective jurisdictions, and to examine and take the proof of wills, and grant certificates thereof, according to the methods and rules following; that is to say: If any Testator shall have a mansion-house, or known place of residence, his will shall be proved in the Court of the District, County, or Corporation, wherein such mansion-house, or place of residence is; if he have no such place of residence, and lands be devised in the will, it shall be proved in the Court of the District, County, or Corporation, wherein the lands lie, or in one of them where there shall be lands in several Districts or Counties; and if he hath no such known place of residence, and there be no lands devised, then the will may be proved, either in the Court of the District, County, or Corporation where the Testator shall die, or that wherein his estate, or the greater part thereof, shall be; or such will may in any case, be proved in the General Court. *a*

District and county courts may take proof of wills, and grant administrations.

XI. WHEN any will shall be exhibited to be proved, the Court having jurisdiction as aforesaid, may proceed immediately to receive the probat thereof, and grant a certificate of such probat: If however, any person interested, shall within seven years afterwards appear, and by his bill in Chancery contest the validity of the will, an issue shall be made up, whether the writing produced be the will of the Testator or not, which shall be tried by a Jury, whose verdict shall be final between the parties; saving to the Court a power of granting a new trial for good cause, as in other trials; but no such party appearing within that time, the probat shall be forever binding: Saving also to infants,

Probat to be received when the will is exhibited.

But the validity thereof may be contested by any interested within seven years thereafter.

(a) 1785, *ch.* 61, *sec.* 3, 4, 5, 6, 7, 8, 9, 10. † *Soldiers and seamen were authorised to make nuncupative wills by stat's* 29, *char.* 2, *c.* 3 *and* 5, *W.* 3, *c.* 21, *which were considered as never in force in this country—Quere therefore the effect of this clause—vide* 1 *B. Com* 417.

femes covert, and persons absent from the state, or *non compos mentis*, the like period after the removal of their respective disabilities. *a*

XII. IN all such trials by Jury, the certificate of the oath of the witnesses at the time of the first probat, shall be admitted as evidence, to have such weight as the Jury shall think it deserves. *b*

How wills may be proved by witnesses residing out of the commonwealth.

XIII. IT shall be lawful for any Court when any will shall be produced to them for probat, and any witness attesting the same shall reside out of the Commonwealth, to issue a commission or commissions annexed to such will, and directed to the presiding Judge of any Court of Law, or to any Notary Public, Mayor, or other Chief Magistrate of any City, Town, Corporation, or County, where such witness may be found, authorising the taking and certifying his attestation. If the person to whom any such commission shall be directed, shall certify in the manner such acts are usually authenticated by him, that the witness personally appeared before him and made oath, or solemn affirmation (as the case may require) that the Testator signed and published the writing annexed to such commission as his last will and testament, or that some other person signed it by his direction, that he was of disposing mind and memory, and that he subscribed his name thereto in the presence of the Testator, and at his request, such oath or affirmation shall have the same operation, and the will be recorded in like manner, as if such oath or affirmation had been made in the Court from whence such commission issued. *c*

Copies of wills proved in other states or countries, may be proved & recorded in the courts of this commonwealth.

XIV. AUTHENTICATED copies of wills proved according to the Laws of any of the United States, or of Countries without the limits of the same, and relative to any estate within this Commonwealth, may be offered for probat in the General Court; or where the estate so devised shall lie altogether in any one County or District, the Court of such County or District respectively may admit to record any such authenticated copies, but the bond and oath of the executor or administrator, with the will annexed, shall be changed from the bond and oath required by Law in other cases, in such manner as to the said Court shall seem necessary, and the proof to be made by the witnesses shall be conformed to the nature of the case. But such will shall be liable to be contested and controverted in the same manner as the original might have been. *d*

The validity thereof may be contested as the originals might have been.

The executors named therein entitled to probat.

And administration granted where there are none, or they refuse to qualify.

XV. ALL persons named as executors in any such will, shall, after the copy thereof has been admitted to record as above directed, be entitled to a probat of the said will, in the same manner as if the original will had been proved in such Court. And where there shall be no executors named in the said will, or the executors therein named, shall all of them refuse the executorship, the Court shall have the same power and authority to hear and determine the right of administration, and to grant a certificate for obtaining letters of administration, with the will annexed, as if the original will had been proved in Court. *e*

When nuncupative wills may be proved.

XVI. NO nuncupative will shall be proved within fourteen days after the death of the Testator, nor until his widow (if any) and next of kin, have been summoned to contest the same, if they please. *f*

Any person possessed of another's will may be compelled to produce it.

XVII. IF the General Court, or any District, County, or Corporation Court, having jurisdiction as aforesaid, shall be informed that any person hath the will of a Testator in his custody, such Court may summon such person, and by a proper process, compel him to produce the same. *f*

Where executors refuse, administration with the will annexed shall be granted.

XVIII. IF the executors named in any will shall all refuse the executorship, or being required to give security as herein after mentioned, shall refuse or fail to give the same, which shall amount to a refusal of the executorship, in either case, the Court having jurisdiction as aforesaid, may receive the proof of the will, and grant a certificate for obtaining letters of administration with the same annexed, to the person to whom administration would have been granted, if there had been no will of the deceased. *f*

Executors and administrators shall be sworn.

XIX. BEFORE granting a certificate of the probat of any will, the executor or administrator, with the will annexed (as the case may be) shall in open Court take the following oath, to wit:

Oath of an executor or administrator with the will annexed.

YOU shall swear that this writing contains the true last will of the within named , as far as you know or believe; and that you will well and truly perform the same by paying first his debts, and then the legacies contained in the said will, as far as his goods, chattels and credits will extend, and the Law

(*a*) 1785, *ch.* 61, *sec.* 11. 22*d Geo.* 2*d*, *ch.* 8, *sec.* 4. (*b*) 1785, *ch* 61, *sec.* 12. (*c*) 1787, *ch.* 21, *sec.* 2. (*d*) 1789, *ch.* 13, *sec.* 7. (*e*) 1787, *ch.* 21, *sec.* 7. (*f*) 1785, *ch.* 61, *sec.* 13, 14.

charge you; and that you will make a true and perfect inventory of all the said goods, chattels and credits, as also a just account when thereto required.
And shall also give bond, in such penalty, as will be equal to the full value of the estate at the least, and with such security as shall be approved of by the Court, with the following condition, to wit:

THE condition of this obligation is, that if the said , executor of the last will and testament, (or administrator with the will annexed, of all the goods, chattels and credits) of , deceased, do make a true and perfect inventory of all and singular, the goods, chattels and credits of the said deceased, which have, or shall come to the hands, possession, or knowledge of , the said , or into the hands or possession of any other person or persons for , and the same so made, do exhibit into the Court of . at such time as shall be thereto required by the said Court. and the same goods chattels, and credits, do well and truly administer according to Law and make a just and true account of all things and doings therein, when thereunto required by the said Court; and further, do well and truly pay and deliver all the legacies contained and specified in the said will, as far as the said goods. chattels, and credits will extend, according to the value thereof, and as the Law shall charge , then this obligation to be void or else to remain in full force. (a)

Bond.

XX. WHICH bond shall be payable to the Judges or Justices sitting in Court, and their successors, and shall not become void upon the first recovery, but may be put in suit and prosecuted from time to time, by and at the costs of any party injured by a breach thereof, until the whole penalty be recovered thereupon. *a*

The whole penalty recoverable thereon.

XXI. BUT where any Testator shall leave visible estate, more than sufficient to pay all his debts, and by will shall direct that his executors shall not be obliged to give security, in that case no security shall be required, unless the Court shall see cause from their own knowledge, or the suggestions of creditors or legatees, to suspect the executors of fraud, or that the Testator's personal estate will not be sufficient to discharge all his debts, and shall require security, when the same shall be given, before a certificate shall be granted, notwithstanding any directions to the contrary in the Testator's will. *a*

When executors shall not be obliged to give security.

XXII. THE power of executors over their Testator's estates before probat of the will, is not hereby restrained, but shall continue as heretofore. *a*

Their power before probat.

XXIII. DURING any contest about a will, or during the infancy, or in the absence of an executor, or until a will which may have once existed, but is destroyed, shall be established, or whenever the Court from any other cause shall judge it convenient, they may appoint any person or persons to collect and preserve the estate of any decedent, until a probat of his will, or *durante minore ætate*, or until administration of his estate be granted, taking bond and security for collecting the estate, making an inventory thereof, and safe keeping and delivering up the same when required, to the executors or administrators. *a*

In what cases the court shall appoint a person to collect and preserve a decedent's estate.

XXIV. THE bond and oath of the administrator or appointee in such cases, shall be changed from the bond and oath of an administrator in ordinary cases, in such manner as to the said Courts, or any of them, shall seem necessary. *a*

XXV. WHEN any widow shall not be satisfied with the provision made for her by the will of her husband, she may within one year from the time of his death, before the General Court, or Court having jurisdiction of the probat of his will as aforesaid, or by deed executed in the presence of two or more credible witnesses, declare that she will not take or accept the provision made for her by such will, or any part thereof, and renounce all benefit which she might claim by the same will; and thereupon such widow shall be entitled to one third part of the slaves whereof her husband died possessed, which she shall hold during her life, and at her death they and their increase, shall go to such person or persons, to whom they would have passed and gone, if such declaration had not been made; and she shall moreover be entitled to such share of his other personal estate, as if he had died intestate, to hold to her as her absolute property; but every widow not making a declaration within the time aforesaid, shall have no more of her husband's slaves and personal estate, than is given her by his will. *a*

Widow not satisfied with the provision made for her by her husband's will, may renounce her legacy and demand her dower of the slaves and her proportion of the personal estate.

XXVI. ALL original wills shall be recorded, and shall also remain in the Clerk's office of the Court wherein they are respectively proved, except during such time as they may be in any Superior Court, having been removed thither for inspection by *certiorari*, or otherwise, after which they shall be returned to the said Office. *a*

Original wills to be recorded and remain in the clerk's office.

(a) 1785, ch. 61, sec. 16, 17, 18, 19, 20, 21, 24.

Inteſtates' eſtates, how to be diſtributed amongſt their repreſentatives.

XXVII. WHEN any perſon ſhall die inteſtate as to his goods and chattels, or any part thereof, after funeral debts and juſt expenſes paid, if there be no child, one moiety, or, if there be a child or children, one third of the ſurplus ſhall go to the wife, but ſhe ſhall have no more than the uſe for her life of ſuch ſlaves as ſhall be in her ſhare, and the reſidue of the ſurplus, and after the wife's death, the ſlaves in her ſhare, or, if there be no wife, then the whole of ſuch ſurplus ſhall be diſtributed in the ſame proportions, and to the ſame perſons, as lands are directed to deſcend in and by an Act of the General Aſſembly, intituled, "*An Act to reduce into one, the ſeveral Acts directing the courſe of deſcents.*" Nothing in this Act contained, ſhall be underſtood ſo as to compel the huſband to make diſtribution of the perſonal eſtate of his wife dying inteſtate. Where any children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his lifetime, any perſonal eſtate by way of advancement, and ſhall chooſe to come into the diſtribution with the other perſons entitled, ſuch advancement ſhall be brought into hotchpot with the diſtributable ſurplus. *a*

Rules in granting adminiſtration of inteſtates' eſtates.

XXVIII. THE General Court, and the ſeveral Courts reſpectively, ſhall have the like juriſdiction to hear and determine the right of adminiſtration of the eſtates of perſons dying inteſtate, as is herein before mentioned, as to the proof of wills, in reſpect to the inteſtate's place of reſidence, or death, or where the eſtate ſhall lie, and ſhall grant certificates for obtaining ſuch adminiſtration, to the repreſentatives who apply for the ſame; preferring firſt the huſband or wife, and then ſuch others as are next entitled to diſtribution, or one, or more of them, as the Court ſhall judge will beſt manage and improve the eſtate. *a*

XXIX. IF no ſuch perſon applies for adminiſtration within thirty days from the death of an inteſtate, or at the next ſucceeding Court after the expiration thereof, the Court may grant adminiſtration to any creditor or creditors who apply for the ſame, or to any other perſon the Court ſhall, in their diſcretion, think fit. *a*

Wills may be proved after adminiſtration granted.
Diſtributee may obtain adminiſtration although it may have been previouſly granted to a creditor or other perſon.

XXX. BUT if any will ſhall afterwards be produced, and proved by Executors, or the wife, or other diſtributee, who ſhall not have before refuſed, ſhall apply for the adminiſtration, the ſame ſhall be granted, in like manner as if the former had not been obtained. *a*

XXXI. BEFORE granting a certificate for the adminiſtration of any eſtate, the perſon or perſons to whom the ſame is granted, ſhall, in open Court, take the following oath, to wit:

Adminiſtrators' oath.

YOU ſhall ſwear that , deceaſed, died without any will, as far as you know or believe, and that you will well and truly adminiſter all and ſingular the goods, chattels, and credits of the ſaid deceaſed, and pay his debts, as far as his goods, chattels and credits will extend and the Law require you; and that, you make a true and perfect Inventory of all the ſaid goods chattels, and credits, as alſo a juſt account when thereunto required. So help you GOD. *(a)*

XXXII. AND ſhall alſo give bond, in a penalty at leaſt equal to the value of the eſtate, and with ſuch ſecurity as ſhall be approved by the Court, with the following condition, to wit:

Bond.

THE condition of this obligation is, That if the ſaid , adminiſtrator of the goods, chattels, and credits of , deceaſed, do make a true and perfect inventory of all and ſingular the goods, chattels, and credits of the ſaid deceaſed, which have, or ſhall come, to the hands, poſſeſſion, or knowledge of , the ſaid , or in the hands or poſſeſſion of any other perſon or perſons, for , and the ſame ſo made, do exhibit into the Court, , when he ſhall be thereto required by the ſaid Court; and ſuch goods, chattels, and credits, do well and truly adminiſter, according to Law; and further do make a juſt and true account of his actings and doings therein, when thereto required by the ſaid Court; and all the reſt of the ſaid goods, chattels and credits, which ſhall be found remaining upon the account of the ſaid adminiſtrator, the ſame being firſt examined and allowed by the Juſtices of the ſaid Court for the time being ſhall deliver and pay unto ſuch perſons, reſpectively, as are entitled to the ſame by Law; and if it ſhall hereafter appear, that any laſt will and teſtament was made by the deceaſed, and the ſame be proved in Court, and the executor obtain a certificate of the probat thereof, and the ſaid do, in ſuch caſe, being required, render and deliver up his letters of adminiſtration, then this obligation to be void, elſe to remain in full force.

Which bond ſhall be payable to the ſitting Juſtices, and their ſucceſſors, and may

(a) 1785, *ch.* 61, *ſec.* 25, 26, 27, 28.

be put in suit and prosecuted in like manner as is before directed in the case of bonds to be given by executors or administrators, with the will annexed. *a*

Securities how far chargeable in case of false pleading by executors or administrators.

XXXIII. BUT no security for any executor or administrator, shall be chargeable beyond the assets of the Testator or Intestate, by reason of any omission or mistake in pleading, or false pleading of such executors or administrator. *a*

Where good security shall not be taken, the justices liable.

XXXIV. IF any Court shall grant a certificate for obtaining administration of the estate of any person deceased, without taking good security for the same, as aforesaid, to be judged of according to the apparent circumstances of the security, when taken, and not from subsequent accidents or discoveries thereof, the Justices of such Court then sitting, shall be answerable to the person or persons injured, for all loss or damage occasioned by the not requiring any, or, by the taking insufficient security, recoverable with costs, by action on the case, in any Court of Record. *a*

How securities may be indemnified.

XXXV. WHEN securities for executors or administrators conceive themselves in danger of suffering thereby, and petition the Court for relief, the Court shall summon the executor or administrator, and make such order or decree thereupon, to relieve and secure the petitioners, by counter-security, or otherwise, as to them shall seem just and equitable. *a*

Certificates of probat or administration attested by clerks of court, as effectual as a probat or letters of administration in form

Clerks when required to make them out in due form.

XXXVI. ALL certificates of probat or administration, attested by the Clerk, shall enable the executor or administrator to act, and may be produced, or given in evidence in any Court within this Commonwealth, and be as effectual as any probat or letters of administration made out in due form: *Nevertheless*, the Clerks of the Courts shall, when required by an executor or administrator, make out such probat or letters in due form, in the name of the first Justice of the Court; which probat or letters shall be signed by such Justice, and sealed with the District, County, or Corporation seal, if the will be proved in a District, County, or Corporation Court, or with the seal of the Commonwealth, if proved in the General Court. *a*

Lists of probats and administrations in the general, district, and county courts, to be recorded in the general court.

XXXVII. THE Clerk of every District, County, or Corporation Court, shall annually, on or before the first day of *October*, return to the Clerk of the General Court, a list of all certificates granted in his Court for probats and administrations within the preceding year, in this form [date of certificate] [name of Testator or Intestate] [names of securities] [penalty of bond.] Which lists, together with such certificates as are granted in the General Court, shall be entered by the Clerk of the General Court, alphabetically, in books to be kept for that purpose. *a*

Appraisers to be appointed.

XXXVIII. EVERY Court granting a certificate for a probat or administration, shall nominate three or more appraisers in every County or Corporation, where any of the personal estate of the decedent shall be, who, being sworn before a Justice of the Peace for that purpose, shall truly and justly, to the best of their judgment, view and appraise all the personal estate to them produced, and shall return such appraisement under their hands to the Court ordering the same; which appraisement, if signed by the executor or administrator, may be considered as an inventory of such part of the estate, as had heretofore come to his hands. *a*

Inventories & appraisements how far evidence for or against executors and administrators.

XXXIX. INVENTORIES and appraisements may be given in evidence in any suit by or against the executor or administrator, but shall not be conclusive for or against him, if other testimony be given that the estate was really worth, or was, *bona fide*, sold for more or less than the appraisement. *a*

Allowance to appraisers.

XL. EACH appraiser shall be entitled to fifty cents per day, for his attendance, to be paid by the executor or administrator, and charged to the estate. *a*

Duty of executors and administrators in selling perishable goods, specific legacies excepted.

XLI. EXECUTORS and administrators, whether it be necessary for payment of debts, or not, shall, as soon as convenient after they are qualified, sell at public sale, all such goods of their Testator or Intestate, specific legacies excepted, as are liable to perish, be consumed, or rendered worse by keeping, giving such credit as they shall judge best, and the circumstances of the estate will admit of, taking bond and good security of the purchasers, and shall account for such goods according to the sales: If more be sold than will pay the debts and expenses, the executor or administrator may assign the bonds for the surplus, to those entitled to the estate, and be discharged as to so much; and if after such assignment, the obligor become insolvent so as the money be lost, without the fault or neglect of the assignee, then such loss shall be made good to the assignee out of the decedent's estate. *a*

(*a*) 1783, *ch.* 61, *sec.* 29, 30, 31, 32, 33, 34, 35, 36, 37, 38. 2*d Geo.* 2*d*, *ch.* 3, *sec.* 27.

In selling the other personal estate.

XLII. IF such perishable goods be not sufficient for paying the debts and expenses, the executor or administrator shall proceed in the next place, to sell the other personal estate, until the debts and expenses be all paid, having regard to the privilege of specific legacies. *a*

Where no appraisement shall be necessary. Where the estate shall not be sold.

XLIII. NEVERTHELESS, if the Testator direct his estate not to be appraised, it shall be sufficient to return an inventory thereof only; and if he direct his estate not to be sold, the same shall be preserved in specie, unless a sale be necessary for the payment of debts. *a*

Dead victuals and liquors to remain for the use of the family.

XLIV. THE dead victuals and liquors, which at the death of any Testator or Intestate, shall have been laid in for consumption in his family, shall not be sold by the executor or administrator, but shall remain for the use of such family, without account thereof to be made: If, however, before its final consumption, any child shall leave the family, such child shall have a right to carry with him or her, an equal share of what shall then be on hand. Any live stock which may be necessary for the food of the family, may also be killed for that use, at any time before the sale, division or distribution of the estate. *a*

Sale and conveyance of lands devised to be sold, by whom to be made.

XLV. THE sale and conveyance of lands devised to be sold, shall be made by the executors, or such of them as shall undertake the execution of the will, if no other person be thereby appointed for that purpose, or if the person so appointed shall refuse to perform the trust, or die before he shall have completed it. But if none of the executors named in such will shall qualify, or after they have qualified, shall die before the sale and conveyance of such lands, then in those cases, the sale and conveyance thereof, shall be made by such person or persons to whom administration of the Testator's estate, with the will annexed, shall be granted. *a*

Rules concerning servants, slaves and crops.

XLVI. IF any person shall die after the first day of *March*, the servants and slaves of which he was possessed, whether held for life or for other interest, and which were employed in making a crop; shall be continued on the plantations in the occupation of the decedent, until the last day of *December* following, and then delivered to those who shall have a right to demand the same; and their crops shall be assets in the hands of the executors and administrators, subject to debts, legacies and distribution; the levies and taxes, their tools, the expense of feeding them and their families to that time, and delivering them well cloathed, being first deducted. And if such slaves or servants be held by the Testator or Intestate for his or her life only, in that case the executor or administrator shall be obliged to deliver, to those who are entitled in remainder or reversion, three barrels of *Indian* corn for every such servant or slave, old and young, to be allowed in their accounts of administration. *a*

XLVII. IF a Testator or Intestate shall die after the first day of *March*, all the emblements of his lands which shall be severed before the thirty-first day of *December* following, shall in like manner be assets in the hands of the executor or administrator, but all such emblements growing on the lands on that day, or at the time of the death of the Testator or Intestate, if that event happen after the thirty-first day of *December*, and before the first day of *March*, shall pass with the land to the heir, devisee, reversioner, or remainder man. *a*

Where tenant for life, of lands or slaves let or hired to another, dies after first March.

XLVIII. IF there be Tenant for life of lands or slaves let or hired to another, at the death of such Tenant for life, if that event happen after the first day of *March*, the lessee or person hiring, shall hold the lands and slaves until the last day of *December* following, paying rent or hire to that time, and in the case of slaves, delivering them well cloathed. *a*

To whom the rent shall be paid, where tenant for life of lands or slaves dies before it becomes due.

XLIX. THE rent of land or hire of slaves shall be apportioned between the executor or administrator of him, who having a freehold, or other uncertain estate in the land, and the use for life, or for other uncertain term in the slaves, shall die before the rent or hire become due, and him who shall succeed to the lands and slaves, as heir, devisee, or person in reversion or remainder, unless in the case of a devisee, the contrary be directed by the Testator. *a*

Debt not extinguished by appointing a debtor executor.

L. THE appointment of a debtor executor shall in no case be deemed an extinguishment of the debt, unless it be so directed in the will. *a*

When distribution of intestates' estates is to be made.

LI. NO distribution shall be made of an Intestate's estate until nine months after his death, nor shall an administrator be compelled to make distribution at any time, until bond and security be given by the person entitled to distribution, to refund due proportions of any debts or demands, which may afterwards appear against the Intestate, and the costs attending the recovery of such debts. *a*

(*a*) 1785, *ch.* 61, *sec.* 39, 40, 41, 42, 43, 44, 45, 46, 47, 48.

Executors or administrators to be allowed all just expenses. And a reasonable recompence for their trouble.

LII. EXECUTORS and administrators shall be allowed in their accounts all reasonable charges and disbursements which they shall lay out and expend in the funeral of the deceased, and other their administration, and may be allowed such recompence for their personal trouble, as the Court on passing their accounts, shall judge reasonable. *a*

Executors or administrators of guardians, committees, or of executors or administrators, to pay debts due from their testators to wards, ideots, legatees, &c. before any other debts.

LIII. THE executors or administrators of a guardian, of a committee, or of any other person, who shall have been chargeable with, or accountable for the estate of a ward, an ideot, or a lunatic, or the estate of a dead person, committed to their Testator or Intestate by a Court of Record, shall pay so much as shall be due from the Testator or Intestate, to the ward, ideot, or lunatic, or to the legatees, or persons entitled to distribution, before any proper debt of their Testator or Intestate. *a*

Tenant of lands held for the life of another, may devise his interest therein. How it shall be disposed of where there is no such devise.

LIV. WHERE any person shall die seized of lands held for life of another, such person may, by his or her last will and testament in writing, made and proved, as is herein before directed for the devise of lands, devise all his interest in such lands, which shall, if necessary, be assets in the hands of such devisee. And if no such devise be made, such lands for the residue of the term shall be assets in the hands of the heir, if it shall come to him by reason of a special occupancy, in the same manner as lands descending in fee-simple; and if there be no special occupant, it shall go to the executors or administrators of the person so dying seized, and be assets in their hands, subject to debts, legacies, and distribution. *a*

In what cases executors or administrators may be sued.

LV. EXECUTORS or administrators may sue, or be sued upon all judgments, bonds, or other specialties, bills, notes, or other writings of their Testators or Intestates, whether the executors or administrators be, or be not named in such instruments, and also upon all their personal contracts. *a*

In suits against executors or administrators on open accounts, courts to expunge all items due five years before the death of the testator.

LVI. IF any suit shall be brought against any executor or administrator for the recovery of a debt due upon an open account, it shall be the duty of the Court before whom such suit shall be brought, to cause to be expunged from such account, every item thereof which shall appear to have been due five years before the death of the Testator or Intestate. Saving to all persons *non compos mentis, femes covert*, infants, imprisoned, or out of this Commonwealth, who may be plaintiffs in such suits, three years after their several disabilities removed; and if any person shall wilfully post-date any such account, he shall forfeit and pay ten fold the amount of the articles so post-dated; to be recovered by action of debt in any Court of Record, where the penalty incurred shall exceed twenty dollars, and by petition where the penalty incurred shall be under that sum.

Penalty for post-dating such accounts.

Within what time actions of debt must be brought, and writs of scire facias issued against executors or administrators on judgements against their testators or intestates.

LVII. NO action of debt shall be brought against any executor or administrator upon a judgment obtained against his Testator or Intestate, nor shall any *scire facias* be issued against any executor or administrator to revive such judgment after the expiration of five years from the qualification of his executor or administrator, and all such judgments after the expiration of five years, upon which no proceedings shall have been had, shall be deemed to have been paid and discharged. Saving to all persons *non compos mentis, femes covert*, infants, imprisoned, or out of this Commonwealth, who may have been entitled to the benefit of any such judgment, three years after their several disabilities removed.

Executors or administrators may maintain trespass for goods taken from their testators or intestates.

LVIII. ACTIONS of trespass may be maintained by or against executors or administrators, for any goods taken or carried away in the life-time of the Testator or intestate, and the damages recovered shall be, in the one case, for the benefit of the estate, and in the other, out of the assets. *a*

Duty of executors of executors as to the will of the first testator.

LIX. EXECUTORS of executors shall do and perform all things in the execution of the will of the first Testator, which shall remain undone at the death of the first executor; and shall and may sue, or be sued, in all things respecting the estate, in the same manner as such first executor could or might have sued, or been sued. *a*

Executors or administrators of executors or administrators, chargeable for waste done by their testators or intestates.

LX. THE executor or administrator of an executor in his own wrong, and the executor or administrator of a rightful executor or administrator, by whom any waste shall have been committed, shall be chargeable in the same manner as his Testator or Intestate might have been. *b*

How the estates of deceased persons are to be disposed of when

LXI. IF all the executors named in any last will shall refuse to undertake the executorship, or being required to give security, shall refuse to give or be unable to procure the same, and no person will apply for administration with

(a) 1785, *ch.* 61, *sec.* 49, 50, 51, 52, 53, 54. *(b)* 22 *Car.* 2, *ch.* 3, *sec.* 36.

the executors refuse to qualify, and no person applies for administration.

the will annexed: Or, if no perſon will apply for adminiſtration of the goods and chattels of any Inteſtate, it ſhall be lawful for the General Court, or other Court having juriſdiction of ſuch probat or adminiſtration, as herein before mentioned, after the expiration of three months from the death of the Teſtator or Inteſtate, to order the Sheriff or other Officer of the County or Corporation, to take the eſtate into his poſſeſſion, and make ſale of ſo much thereof by public auction, as the payment of debts ſhall make neceſſary, or as ſhall be perishable, or be directed by will to be ſold: And all ſales and conveyances, *bona fide* made by the Sheriff or his deputies, or other Officer, in conſequence of ſuch order, ſhall be as effectual to the purchaſers, as if they had been made by the Teſtator or Inteſtate in his lifetime. The eſtate ſhall be ſold upon ſuch credit as the Court ſhall direct, and upon public notice previouſly given, the purchaſers giving bond and good ſecurity for payment according to the limited time of credit. The Sheriff or other Officer may ſue, if neceſſary, for recovery of debts, or of goods and chattels, and ſhall make a true and perfect inventory of the whole eſtate, and an account of ſales, and ſhall return the ſame, together with the bonds, to the Court by whom he was ordered to ſell, without delay, who ſhall firſt direct the payment of ſuch debts as ſhall be proved before them, and proportion the aſſets amongſt the creditors, without regard to the dignity of debts, where there ſhall not be ſufficient to pay the whole; but if there be ſufficient, they may order the ſurplus, if any, to the legatees or next of kin to the decedent, according to the directions of the will, or of this Act. Whereupon the Sheriff, or Deputy, or other Officer, ſhall aſſign the bonds and deliver the eſtate remaining unſold, to the creditors or others according to ſuch order, retaining nevertheleſs his commiſſions, which ſhall be the ſame upon the eſtate by him ſold, as is allowed for goods taken in execution; and where the whole eſtate is not ſold, he ſhall moreover be allowed his reaſonable expenſes and diſburſements in the care of the part unſold. *a*

Former ſales and conveyances by ſheriffs of lands deviſed to be ſold, where the executor refuſed to act, confirmed.

LXII. ALL ſales and conveyances of lands heretofore *bona fide* made by a Sheriff or other Officer, under any order of Court where the lands had been deviſed to be ſold, and the executor had refuſed to act, are hereby confirmed and made effectual againſt all perſons claiming under the Teſtator. *a*

Repealing clauſe. Proviſo.

LXIII. ALL and every Act, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, that nothing in this Act contained, ſhall be conſtrued to affect any right which may have accrued or been veſted before the commencement of this Act.

Commencement of this act.

LXIV. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. XCIII.

An Act to reduce into one, the ſeveral Acts directing the Courſe of Deſcents. †

[Paſſed the 8th of December, 1792.†]

Real eſtate of inheritance of perſons dying inteſtate, to deſcend in parcenary to their kindred.

I. BE *it enacted by the General Aſſembly*, That henceforth when any perſon having title to any real eſtate of inheritance, ſhall die inteſtate as to ſuch eſtate, it ſhall deſcend and paſs in parcenary to his kindred, male and female, in the following courſe; that is to ſay: *b*

Courſe of deſcents.

II. TO his children or their deſcendants, if any there be: *b*

III. IF there be no children, nor their deſcendants, then to his father: *b*

IV. IF there be no father, then to his mother, brothers and ſiſters, and their deſcendants, or ſuch of them as there be. *b*

V. *PROVIDED, nevertheleſs*, That where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the father, neither the mother of ſuch infant nor any iſſue which ſhe may have by any perſon, other than the father of ſuch infant, ſhall ſucceed to, or enjoy the ſame, or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the father, or any brother or ſiſter of the father, or

(*a*) 1785, *ch.* 61, *ſec.* 55, 56. † *An act of Dec. Seſſion* 1801, *pa.* 12, *ch.* 13, *provide for the Diſtribution of unbequeathed Perſonal Eſtate. The act of* '85, *ch.* 60, *took effect January* 1, 1787. *The act of* 1790, *ch.* 13, *took effect March* 1*ſt*, 1791. *See act of* 1789. *ch.* 9.—*This act took effect from paſſing thereof, but was ſuſpended—See ch.* 150, *poſt, from Dec.* 28, 1792, *to Oct.* 1*ſt*, 1793.

(*b*) 1785, *ch.* 60, *ſec.* 1, 2, 3, 4.

any lineal deſcendant of either of them. Saving however, to ſuch mother any right of dower which ſhe may claim in the ſaid real eſtate of inheritance. *a*

VI. *AND provided alſo*, That where an infant ſhall die without iſſue, having title to any real eſtate of inheritance, derived by purchaſe or deſcent from the mother, neither the father of ſuch infant, nor any iſſue which he may have by any perſon other than the mother of ſuch infant, ſhall ſucceed to, or enjoy the ſame or any part thereof, if there be living any brother or ſiſter of ſuch infant on the part of the mother, or any brother or ſiſter of the mother, or any lineal deſcendant of either of them. Saving however, to ſuch father the right which he may have as tenant by the curteſy in the ſaid eſtate of inheritance. *a*

VII. IF there be no mother, nor brother, nor ſiſter, nor their deſcendants, and the eſtate ſhall not have been derived either by purchaſe or deſcent, from either the father or the mother, then the inheritance ſhall be divided into two moieties, one of which ſhall go to the paternal, the other to the maternal kindred, in the following courſe; that is to ſay: *b*

VIII. FIRST, to the grand-father. *b*

IX. IF there be no grand-father, then to the grand-mother, uncles, and aunts on the ſame ſide, and their deſcendants, or ſuch of them as there be: *b*

X. IF there be no grand-mother, uncle nor aunt, nor their deſcendants, then to the great grand-fathers, or great grand-father, if there be but one: *b*

XI. IF there be no great grand-father, then to the great grand-mothers, or great grand-mother, if there be but one, and the brothers and ſiſters of the grand-fathers and grand mothers, and their deſcendants, or ſuch of them as there be: *b*

XII. AND ſo on in other caſes, without end; paſſing to the neareſt lineal male anceſtors, and for the want of them to the lineal female anceſtors in the ſame degree, and the deſcendants of ſuch male and female anceſtors, or to ſuch of them as there be. *b*

XIII. BUT no right in the inheritance ſhall accrue to any perſons whatever, other than to children of the inteſtate, unleſs they be in being, and capable in law to take as heirs, at the time of the inteſtate's death. *b*

None except the children of the inteſtate to take, unleſs in being at the inteſtate's death.

XIV. AND where, for want of iſſue of the inteſtate, and of father, mother, brothers and ſiſters, and their deſcendants, the inheritance is before directed to go by moieties to the paternal and maternal kindred; if there ſhould be no ſuch kindred on the one part, the whole ſhall go to the other part: And if there be no kindred either on the one part or the other, the whole ſhall go to the wife or huſband of the inteſtate. And if the wife or huſband be dead, it ſhall go to her or his kindred in the like courſe, as if ſuch wife or huſband had ſurvived the inteſtate, and then died entitled to the eſtate. *b*

Rule where the inheritance is to go by moieties to the paternal and maternal kindred.

XV. AND in the caſes beforementioned, where the inheritance is directed to paſs to the aſcending and collateral kindred of the inteſtate, if part of ſuch collaterals be of the whole blood to the inteſtate, and other part of the half blood only, thoſe of the half blood, ſhall inherit only half ſo much as thoſe of the whole blood; But if all be of the half blood, they ſhall have whole portions, only giving to the aſcendants (if any there be) double portions. *b*

Where ſome are of the whole and others of the half blood.

XVI. AND where the children of the inteſtate, or his mother, brothers and ſiſters, or his grand-mother, uncles and aunts, or any of his female lineal anceſtors living, with the children of his deceaſed lineal anceſtors, male and female in the ſame degree, come into the partition, they ſhall take *per capita*, that is to ſay, by perſons; and where a part of them being dead, and a part living, the iſſue of thoſe dead have right to partition, ſuch iſſue ſhall take *per ſtirpes*, or by ſtocks, that is to ſay, the ſhare of their deceaſed parent. *b*

Where they ſhall take per capita.

Where per ſtirpes.

XVII. AND where any of the children of the inteſtate, or their iſſue, ſhall have received from the inteſtate in his life-time, any real eſtate by way of advancement, and ſhall chooſe to come into partition with the other partners, ſuch advancement ſhall be brought into hotchpot with the eſtate deſcended. *b*

Children receiving real eſtate in advancement, may bring it into hotchpot and come into partition.

XVIII. IN making title by deſcent, it ſhall be no bar to a party that any anceſtor through whom he derives his deſcent from the inteſtate, is, or hath been an alien. Baſtards alſo ſhall be capable of inheriting or of tranſmitting inheritance on the part of their mother, in like manner as if they had been lawfully begotten of ſuch mother. *b*

Alienage of an anceſtor no bar in title by deſcent. Baſtards capable of inheriting and tranſmitting inheritance on the part of the mother.

(*a*) 1790, *ch.* 13, *ſec.* 3, 14. (*b*) 1785, *ch.* 60, *ſec.* 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16.

When baſtards ſhall be legitimated. Iſſue in marriages null in law, legitimate.

XIX. WHERE a man having by a woman one or more children, ſhall afterwards intermarry with ſuch woman, ſuch child or children, if recognized by him, ſhall be thereby legitimated. The iſſue alſo in marriages deemed null in Law, ſhall nevertheleſs be legitimate. *a*

When lands of perſons dying inteſtate, may be ſold.

XX. WHENSOEVER any lands ſhall deſcend from any perſon dying inteſtate to two or more heirs, any one of whom ſhall be an infant, *feme covert*, *non compos mentis*, or beyond ſea, and the dividend of each heir ſhall not exceed the value of one hundred dollars, in the opinion of any Court herein after mentioned, it ſhall be lawful for the High Court of Chancery, or the Court of the County or Corporation in which ſuch lands, or the greater quantity of them lie, to direct the ſale of the ſaid lands, and the diſtribution of the money ariſing therefrom, according to the rights of each claimant: *Provided always*, that each heir reſiding within this Commonwealth, ſhall be firſt duly ſummoned, to ſhew cauſe if any he can againſt ſuch ſale: And where any heir ſhall reſide without this Commonwealth, the Court ſhall make an order for publication, which order being inſerted in the *Virginia* Gazette for eight weeks ſucceſſively, ſhall be conſidered as a ſummons. *b*

One parcener may maintain waſte againſt another. Rights of parceners equal in elections, diviſions, &c.

XXI. ONE parcener may maintain an action of waſte againſt another, but no parcener ſhall have or poſſeſs any privilege over another in any election, diviſion or matter to be made or done, concerning lands which ſhall have deſcended to them. *b*

Repealing clauſe. Proviſo.

XXII. ALL and every Act and Acts, clauſes and parts of Acts heretofore made, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing herein contained, ſhall be conſtrued in any wiſe to affect any right, title, intereſt or claim to, or in any eſtate in lands or tenements whatſoever, accrued before the commencement of this Act, but the ſame ſhall be, and remain in the ſame condition, as if this Act had never been made.

Commencement of this act.

XXIII. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. XCIV.

An Act to reduce into one, all Acts and Parts of Acts relating to Dower.

[Paſſed the 6th of December, 1792.]

Widows entitled to dower.

I. BE *it enacted by the General Aſſembly*, That the widow of any perſon dying inteſtate, or otherwiſe, ſhall be endowed of one full and equal third part of all the lands, tenements, and other real eſtate, whereof her huſband, or any other to his uſe, was ſeized of an eſtate of inheritance, at any time during the coverture, to which ſhe ſhall not have relinquiſhed her right of Dower, by deed executed, acknowledged, and recorded, in the manner preſcribed by Law for that purpoſe. *c*

And may remain in the manſion houſe & plantation until dower be aſſigned.

II. AND till ſuch Dower ſhall be aſſigned, it ſhall be lawful for her to remain and continue in the manſion houſe, and the meſſuage or plantation thereto belonging, without being chargeable to pay the heir any rent for the ſame; any Law, uſage, or cuſtom to the contrary in any wiſe, notwithſtanding. *c*

Remedy in caſe they are in the mean time deforced thereof.

III. AND if ſhe be thereof in the mean time deforced, ſhe ſhall have a vicontiel writ, in the nature of a writ *de quarentina habenda*, directed to the Sheriff; whereupon ſuch proceedings and ſpeed ſhall be uſed, as hath or might have been uſed on the ſaid writ of quarentine. *d*

Damages for deforcing widows of their dower.

IV. WHOSOEVER ſhall deforce widows of their Dowers of the lands whereof their huſbands died ſeized, or of ſuch manſion houſe or plantation, if the ſame widows ſhall afterwards recover by plea, they that be convicted of ſuch wrongful deforcement, ſhall yield damages to the ſame widows; that is to ſay, the value of the whole Dower to them belonging, from the time of the death of their huſbands, unto the day that the ſaid widows by judgment have recovered ſeizin of their Dower. *d*

What exception of the tenant ſhall not abate a writ of dower.

V. IN a writ of Dower called *unde nihil habet*, the writ ſhall not abate by the exception of the Tenant, becauſe the demandant hath received her Dower of another man, before her writ purchaſed, unleſs he can ſhew that the Dower ſo received was in ſatisfaction of her right of Dower in the lands whereof ſhe demands Dower. *d*

(*a*) 1785, *ch.* 60, *ſec.* 17. (*b*) 1790, *ch.* 13, *ſec.* 1, 6. (*c*) 1705, *ch.* 7, *ſec.* 8. 1785, *ch.* 62. (*d*) 1785, *ch.* 65, *ſec.* 1, 2.

Judgment by default against the husband, shall not bar his widow of her dower.

VI. IN case where the husband being impleaded for land by default, the woman after his death demanding her Dower shall be heard, and if it be alledged against her, that her husband lost the land whereof the Dower is demanded by judgment, whereby she ought not to have Dower, and then it be enquired, by what judgment, and it be found it was by default; whereupon the Tenant must answer, then it behoveth the Tenant to answer further, and to shew that he had right, and hath in the aforesaid lands, according to the form of the writ that the Tenant before purchased against the husband. And if he can shew that the husband of such wife had no right in the lands, nor any other but he that holdeth them, the Tenant shall go quit, and the wife shall recover nothing of her Dower; which thing if he cannot shew, the wife shall recover her Dower. *a*

Remedy where the widow is endowed to the prejudice of the heir within age.

VII. AND where sometime it chanceth that a woman not having a right to demand Dower, the heir being within age, doth purchase a writ of Dower against a guardian, and the guardian endoweth the woman by favor, or maketh default, or by collusion defendeth the plea so faintly, whereby the woman is awarded her Dower in prejudice of the heir, it is provided that the heir when he cometh to full age, shall have an action to demand the seizin of his ancestor against such a woman, like as he should have against any other deforcer; yet so that the woman shall have her exception saved against the demandant, to shew that she had right to her Dower; which if she can shew, she shall go quit, and retain her Dower; and if not, the heir shall recover his demand. *a*

Judgment by default against a widow impleaded for her dower shall not bar her right.

VIII. IN like manner the woman shall be aided, if the heir or any other do implead her for her Dower, if she lose her Dower by default, in which case, the default shall not be so prejudicial to her, but that she shall recover her Dower, if she have right thereto; and she shall have this writ: *a*

COMMAND A. that justly, &c. be render to B. who was the wife of F. so much land, with the appurtenances in C. which she claims to be her reasonable Dower; (or of her reasonable Dower) and that the aforesaid A. deforceth her, &c.

And to this writ the Tenant shall have his exception, to shew that she had no right to be endowed, which if he can verify, he shall go quit, if not, the woman shall recover the land whereof she was endowed before. *a*

Widows may bequeath the crops of their dower lands.

IX. ALSO widows may bequeath the crop of their ground, as well of their Dowers, as of other their lands and tenements. *a*

How a wife may forfeit her right of dower.

X. BUT if a wife willingly leave her husband, and go away and continue with her adulterer, she shall be barred forever of action to demand her Dower, that she ought to have of her husband's lands, if she be convict thereupon, except that her husband willingly and without coercion, reconcile her, and suffer her to dwell with him; in which case she shall be restored to her action. *a*

Where a jointure shall bar a widow of her dower.

XI. ALSO, if any estate be conveyed by deed or will, either expressly or by averment, for the jointure of the wife, in lieu of her Dower, to take effect in her own possession, immediately on the death of her husband, and to continue during her life at the least, determinable by such Acts only as would forfeit her Dower at the common Law, such conveyance shall bar her Dower of the residue of the lands, tenements, or hereditaments, which at any time were her said husband's. But if the said conveyance were before the marriage, and during the infancy of the *feme*, or if it were made after marriage, in either case, the widow may, at her election, wave such jointure, and demand her Dower. *a*

Widows not to have both their dower & the lands intended to be in lieu thereof.

XII. WHEN any conveyance intended to be in lieu of Dower, shall through any defect, fail to be a legal bar thereto, and the widow availing herself of such defect, shall demand her Dower, the estate and interest conveyed to such widow, with intention to bar her Dower, shall thereupon cease and determine. *a*

How they shall be recompensed when evicted of their jointures, or any part thereof.

XIII. IF a widow be lawfully expulsed or evicted from her jointure, or any part thereof, without any fraud or covin, by lawful entry or action, she shall be endowed of as much of the residue of her husband's lands, tenements, or hereditaments, whereof she was before dowable, as the same lands, tenements, or hereditaments, so evicted and expulsed, shall amount and extend unto. *a*

Repealing clause.

XIV. ALL and every other Act and Acts, clause and clauses heretofore made, for or concerning any matter or thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided*, nothing in this Act contained, shall be construed to affect any right which may have accrued, or been vested, prior to the commencement of this Act.

Proviso.

Commencement of this act.

XV. THIS Act shall commence in force, from the passing thereof.

(a) 1785, *ch.* 65, *sec.* 3, 4, 5, 6, 7, 8.

CHAP. XCV.

An Act to reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters and Apprentices.†

[Passed the 11th of December, 1792.]

Fathers may by deed or will dispose of the custody and tuition of their infant children.

I. BE *it enacted by the General Assembly*, That any father, even if he be not twenty-one years old, may by deed or last will and testament, either of them being executed in presence of two credible witnesses, grant or devise the custody and tuition of his child (which had never been married) although it be not born, during any part of the infancy of such child, to whomsoever he will; and such grant or devise heretofore, or hereafter to be made, shall give the grantee or devisee the same power over the person of the child, as a Guardian in common socage hath, and authorise him by action of ravishment of ward or trespass, to recover the child, with damages for the wrongful taking or detaining him or her for his or her use; and for the same use to undertake the care and management, and receive the profits of the Ward's estate, real and personal, and prosecute and maintain any such action and suits concerning the same, as a Guardian in common socage may do. *a*

Such guardians to have the same powers as guardians in common socage.

High court of chancery and county courts empowered to controul guardian, and determine disputes between them and their wards.

II. THE High Court of Chancery, generally, and the Court of every County and Corporation in Chancery, within the limits of their jurisdiction, shall have power from time to time to controul Guardians, and hear and determine all matters between them and their Wards; to require security of any Guardian in socage, or statutory Guardian, when that caution shall seem necessary for prevention of any damage his Ward may suffer by neglect, mismanagement, or malversation; and if the security be refused or delayed, or if such Guardian appear to have been guilty of a flagrant abuse of trust, to displace him and appoint another in his stead, and to give such directions, and make such rules and orders as they shall think fit, for the government, maintenance, and education of Wards, and preservation of their estates, and for the conduct of Guardians. *a*

To require security of them, And to displace them & appoint others when necessary.

Courts shall take security of guardians appointed by them.

III. EVERY Court appointing a Guardian, shall take bond of him, with sufficient security for the faithful execution of his Office; and if any Court omit this duty, or take such security as shall not satisfy them of his sufficiency, which may be done as well by the sureties affidavit, as otherwise, the Ward, by an action on the case against the Judges or Justices so making default, may recover so much of the damages which the Guardian and security shall be answerable for, as these shall be unable to pay. *a*

If a guardian fails or refuses to give security, the court may appoint a curator.

IV. IF any Guardian refuse, or be unable to give the security required of him, the Court may put the estate into the hands of a Curator, the fittest they can prevail upon to undertake the care of it, to be accountable to them, and in that case shall not be sponsible for his ability. *a*

Guardians appointed by the court to deliver inventories of their wards estates.

Their accounts to be exhibited to the court once in every year, or oftener if required: To be examined and if approved to be recorded.

Exceptions thereto how to be made.

V. EVERY Guardian or Curator to be appointed by any Court, shall, at the term or session next afterwards, deliver into such Court, an inventory upon oath of all the estate which he shall have received, to be entered of record in a separate book; and such Guardian or Curator, and every Guardian heretofore appointed, shall exhibit to such Court once in every year, which if it be a County or Corporation Court, shall be in *September*, or at the next session, if there be none in that month, or oftener, if he shall be specially required, accounts of the produce of the estate, of the sales and disposition of such produce, and of the disbursements; which accounts shall be examined by the Court, or by such persons as the Court shall refer them to; and being found and certified or reported to be properly and fairly stated, and the articles thereof to be justified by the vouchers, and the report in case of a reference being approved and confirmed by the Court, shall with such certificate or confirmation, be entered of record in the book aforesaid; and if any article of such accounts at any time afterwards be excepted to by the Ward, or his representative, it shall be incumbent on him to prove or shew the falsity or injustice thereof, unless notice of this behalf shall have been given at the time of passing the accounts, that such article would be excepted to, and a memorandum of that notice shall have been entered on record, or desired to be entered. *a*

The court may compel a guardian to give sup-

VI. THE Court at any time when they shall know or have cause to suspect that the surety of a Guardian is failing, may require and compel such Guar-

† *Amended, post, ch.* 172. (*a*) 1785, *ch.* 86.

dian to give ſupplemental ſecurity, or if he refuſe or neglect to do ſo, may diſplace him. *a* plemental ſecurity.

VII. A GUARDIAN who ſhall not deliver in ſuch inventory, and render ſuch accounts as aforeſaid, ſhall, by order of the Court to which he is amenable, be ſummoned, and if he remain in default, be compelled to perform his duty, or be diſplaced; for which purpoſe the ſummons or other proceſs from a County or Corporation Court may be directed to, and ſhall be executed by the Sheriff of any other County wherein the Guardian may be found; and every Judge or Juſtice of the Court ſitting therein, at any time during the term or ſeſſion in which the proceſs ought to have been ordered, if it be not ordered accordingly, ſhall be amerced. *a* Proceedings againſt guardians failing to deliver in inventories and accounts. Penalty on the Juſtices for neglect.

VIII. IF the diſburſements of the Guardian being ſuitable to the eſtate and circumſtances of the Ward, ſhall exceed the profits of his eſtate in any year, the balance, with the allowance of the Court, may be debited in the account of the ſucceeding year, and the balance appearing on the contrary ſide may be put out to intereſt, for the benefit of the Ward, upon ſuch ſecurity as the Court ſhall approve, or the Guardian, if it remain in his hands, ſhall account for the intereſt; to be computed from the time his accounts were or ought to have been paſſed. *a* Balance due to the guardian for diſburſements to be debited in the account of the enſuing year. Balance due to the ward, how to be diſpoſed of.

IX. IF any ſurety for a Guardian by petition to the Court before whom they were bound, ſetting forth that he apprehends himſelf to be in danger of ſuffering thereby, ſhall pray that he may be relieved, the Court, after a ſummons to anſwer the petition, ſhall have been ſerved upon the Guardian, or a copy of ſuch ſummons ſhall have been left at the place of his uſual abode, ſhall order him to give counter ſecurity, or to deliver the Ward's eſtate into the hands of the ſurety, or ſome other perſon, and in that caſe taking ſufficient ſecurity; or may make ſuch other order for the relief of the petitioner, as to them ſhall ſeem juſt. *a* Securities for guardians in danger of ſuffering, how to be relieved.

X. THE eſtate of a Guardian not under a ſpecific lien, ſhall, after the death of the Guardian, be liable for whatſoever may be due from the Guardian on account of his Guardianſhip, to his Ward, before any other debt due from ſuch Guardian. *a* When a guardian dies, the debt due to his ward to be firſt paid.

XI. EVERY orphan who hath no eſtate, or not ſufficient for a maintenance out of the profits, ſhall, by order of the Court of the County or Corporation in which he or ſhe reſides, be bound Apprentice by the Overſeers of the Poor, until the age of twenty-one years, if a boy, or of eighteen years, if a girl, to ſome maſter or miſtreſs, who ſhall covenant to teach the Apprentice ſome art, trade, or buſineſs, to be particularized in the indenture, as alſo reading and writing; and if a boy, common arithmetic, including the rule of three, and to pay him or her twelve dollars at the expiration of the time; and the indentures of ſuch Apprentices ſhall be filed in the Office of the Clerk of the County, and not transferable to any perſon whatſoever, without the approbation of the Court. *a* Poor orphans to be bound apprentices by the overſeers of the poor.

XII. ANY Guardian may with the approbation of that Court in which his appointment ſhall be recorded, and not otherwiſe, bind his Ward Apprentice to ſuch perſon for learning ſuch art or trade, and with ſuch covenants on the part of the maſter or miſtreſs, as the ſaid Court ſhall direct; and every ſuch Apprentice with the like approbation, or any Apprentice bound by his father, may, with the approbation of the Court of that County in which the father ſhall reſide, after he ſhall be ſixteen years of age, agree to ſerve until he ſhall be twenty-four years of age, or any ſhorter time, and ſuch agreement entered on record ſhall bind him. *a* Guardians may bind out their wards as apprentices, with the approbation of the court. Apprentices over ſixteen years of age, may bind themſelves to ſerve until they are twenty-four.

XIII. WHERE any perſon under the age of twenty-one years is, or ſhall be ſeized or poſſeſſed, of any lands, tenements, or hereditaments, in truſt, or by way of mortgage, the Guardian of ſuch infant, upon petition of one or more of the parties intereſted to the High Court of Chancery, by order of ſuch Court, made after hearing the parties, may execute any ſuch deed, or perform any other ſuch act, as the truſtee or mortgagee, if he were of full age, might have executed or performed; and ſuch deed or other act ſhall be as valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed. *b* Where infants are ſeized of lands, &c. in truſt, deeds executed by their guardians by order of the court of chancery, ſhall be as valid as if executed by the truſtees when of full age.

XIV. ALSO the ſaid Court may in like manner empower ſuch Guardian to make or take a ſurrender of a former leaſe, and to take or make a new leaſe, as the caſe may require, and as it ſhall ſeem moſt to the advantage of the infant, out of whoſe eſtate any fine that may be advanced, and all other juſt expenſes that may be incurred in order to obtain a new leaſe to him, ſhall be reimburſ- Guardians may make or take ſurrenders of leaſes, or make new leaſes under the direction of the court of chancery.

(*a*) 1785, *ch.* 86. (*b*) *Ib. ch.* 85, *ſec.* 1.

ed; and the new leaſe ſhall not only be chargeable with ſuch fine and expenſes, but ſhall remain ſubject to all incumbrances which the leaſe ſurrendered would have been ſubject to.

County and corporation courts to hear the complaint of apprentices againſt their maſters.

XV. THE Court of every County, City, or Borough, ſhall at all times receive the complaints of Apprentices, being Citizens of any one of the United States of *America*, who reſide within the juriſdiction of ſuch Court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient allowance of food, raiment, or lodging, or want of inſtruction, and may hear and determine ſuch caſes in a ſummary way, making ſuch orders thereupon as in their judgment will relieve the party injured in future, or removing the Apprentices, and binding them to other maſters or miſtreſſes, when it ſhall ſeem neceſſary; and may alſo, in the ſame manner, hear and determine complaints of maſters or miſtreſſes againſt their Apprentices, for deſertion without good cauſe. *a*

And of maſters againſt their apprentices.

Infants may ſue by their next friends.

XVI. IN every caſe where ſuch as be within age may ſue, their next friends ſhall be admitted to ſue for them. *b*

Corporation courts to have the ſame powers under this act as the county courts.

XVII. *AND be it further enacted*, That the Courts of Huſtings in the Cities of *Williamſburg* and *Richmond*, and Borough of *Norfolk*, and all other incorporated towns, ſhall have the ſame power as is hereby given to the County Courts.

Repealing clauſe.

XVIII. ALL and every Act and Acts, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

XIX. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. XCVI.

An Act to reduce into one, the ſeveral Acts to prevent unlawful Gaming.†

[Paſſed the 8th of December, 1792.]

All promiſes, agreements, ſecurities and conveyances for gaming debts, void.

I. BE *it enacted by the General Aſſembly*, That all promiſes, agreements, notes, bills, bonds, or other contracts, judgments, mortgages, or other ſecurities or conveyances whatſoever, made, given, granted, drawn, or entered into, or executed by any perſon or perſons whatſoever, before or after paſſing this Act, where the whole or any part of the conſideration of ſuch promiſe, agreement, conveyances, or ſecurities, ſhall be for money or other valuable thing whatſoever, won, laid, or betted at cards, dice, tables, tennis, bowles, or any other game or games whatſoever, or at any horſe-race, cock-fighting, or any other ſport or paſtime, or on any wager whatſoever, or for the reimburſing or repaying any money knowingly lent or advanced at the time and place of ſuch play, horſe racing, cock-fighting, or other ſport or paſtime, to any perſon or perſons ſo gaming, betting, or wagering, or that ſhall at ſuch time and place, ſo play, bet or wager, ſhall be utterly void, fruſtrate, and of none effect, to all intents and purpoſes whatſoever; any Law, cuſtom, or uſage, to the contrary thereof, in any wiſe, notwithſtanding. *c*

Real eſtate under any incumbrance for gaming debts, ſhall devolve to the next heirs.

II. ANY conveyance or leaſe of lands, tenements, or hereditaments, ſold, demiſed, or mortgaged, and any ſale, mortgage, or other transfer of ſlaves or other perſonal eſtate, to any perſon, or for his uſe, to ſatisfy or ſecure money, or other thing by him won of, or lent or advanced to, the ſeller, leſſor, or mortgagor, or whereof money or other thing ſo won, or lent, or advanced, ſhall be part or all of the conſideration money, ſhall inure to the uſe of the heirs of ſuch mortgagor, leſſor, bargainor, or vendor, and ſhall veſt the whole eſtate and intereſt of ſuch perſon in the lands, tenements, or hereditaments, ſo leaſed, mortgaged, bargained, or ſold, and in the ſlaves, or other perſonal eſtate ſo ſold, mortgaged, or otherwiſe transferred, to all intents and purpoſes, in the heirs of ſuch leſſor, bargainor, mortgagor, or vendor, as if ſuch leſſor, bargainor, mortgagor, or vendor had died inteſtate. *d*

When and how any perſon loſing money at gaming may recover it from the winner.

III. IF any perſon or perſons whatſoever,, at any time hereafter within the ſpace of twenty-four hours, by playing at any game or games whatſoever, or by betting on the ſides or hands of ſuch as do play at any game or games, ſhall loſe to any one or more perſon or perſons ſo playing or betting, the ſum or value of ſeven dollars or more in the whole, and ſhall pay or deliver the ſame or any part thereof, the perſon or perſons ſo loſing and paying, or delivering the ſame, ſhall be at liberty within three months then next following, to ſue for and recover the money or goods ſo loſt and paid or delivered, or any part thereof, from the reſpective winner or winners thereof, with coſts of ſuit, by action of

(*a*) 1785, *ch.* 86, *ſec.* 2, 3. (*b*) 1786, *ch.* 66. † *Amended* 1797, *pa.* 4.
(*c*) 22 *Geo.* 2, *ch.* 25, *ſec.* 1. (*d*) *Oct.* '79, *ch.* 12, *ſec.* 1.

debt founded on this Act, to be profecuted in any Court of Record within this Commonwealth, where the ſum or value thereof ſhall be cognizable; in which action it ſhall be ſufficient for the Plaintiff to alledge that the Defendant is indebted to the Plaintiff, or received to the Plaintiff's uſe, the money ſo loſt and paid, or converted the goods won of the Plaintiff to the Defendant's uſe, whereby the Plaintiff's action accrued to him according to the form of this Act, without ſetting forth the ſpecial matter; and in caſe the party loſing ſuch money or other thing, as aforeſaid, ſhall not within the time aforeſaid, really and *bona fide*, without covin or colluſion, ſue, and with effect proſecute for the money or other thing ſo loſt and paid or delivered, it ſhall and may be lawful to and for any other perſon or perſons, by any ſuch action or ſuit, as aforeſaid, to ſue for and recover the ſame, and treble the value thereof, with coſts of ſuit, againſt ſuch winner or winners, as aforeſaid, the one moiety thereof to the uſe of the perſon or perſons ſuing for the ſame, and the other moiety to the uſe of the pariſh where ſuch offence ſhall be committed; and every perſon who by virtue of this preſent Act, ſhall or may be liable to be ſued for monies or other things ſo won, as aforeſaid, ſhall be obliged and compellable to anſwer upon oath, ſuch bill or bills as ſhall be preferred againſt him or them, for diſcovering the money or other things ſo won at play, as aforeſaid. *a*

If he does not ſue within three months any other perſon may, and recover the money paid, and treble the value.

The defendants compellable to anſwer on oath, bills in equity for diſcovering what was won.

IV. *PROVIDED always*, That upon diſcovery and repayment of the money, or other thing ſo to be diſcovered and repaid, as aforeſaid, the perſon and perſons diſcovering and repaying the ſame, ſhall be acquitted, indemnified, and diſcharged from any further or other forfeiture, puniſhment, or penalty which he or they may have incurred by the playing for and winning ſuch money or other thing ſo diſcovered and repaid. *a*

But diſcharged by repayment thereof, from the penalty.

Penalties for playing at public houſes.

V. AND to prevent gaming at Ordinaries and other public places, which muſt be often attended with quarrels, diſputes, and controverſies, the impoveriſhment of many people and their families, and the ruin of the health, and corruption of the manners of youth, who upon ſuch occaſions frequently fall in company with lewd, idle and diſſolute perſons, who have no other way of maintaining themſelves but by gaming: *Be it further enacted*, That if any perſon or perſons ſhall at any time play in an ordinary, race-field, or any other public place, at any game or games whatſoever, except billiards, bowles, backgammon, cheſs, or draughts, or ſhall bet on the ſides or hands of ſuch as do game, every ſuch perſon upon conviction thereof, before any Juſtice of Peace in any County within this Commonwealth, by the oath of one or more credible witneſs or witneſſes, (which oath the ſaid Juſtice is hereby empowered to adminiſter) or by the view of ſuch Juſtice, or the confeſſion of the party accuſed, ſhall forfeit and pay twenty dollars, to be levied by diſtreſs and ſale of the offender's goods, by warrant under the hand of the Juſtice before whom ſuch conviction ſhall be, and for the uſe of the poor of the pariſh wherein ſuch offence ſhall be committed; and moreover, every perſon ſo convicted, ſhall be committed to the County Jail, there to remain until he, ſhe, or they, give ſufficient ſecurity for his, her or their good behaviour for twelve months next after ſuch conviction. *a*

For loſing or winning more than twenty dollars in twenty-four hours.

VI. IF any perſon by playing or betting at any game or wager whatſoever, at any time within the ſpace of twenty-four hours, ſhall loſe or win to or from another, a greater ſum, or any thing of greater value than twenty dollars, the loſer and winner ſhall be liable to pay one half of the entire ſum above the ſaid ſum of twenty dollars which he ſhall ſo win or loſe; and upon information thereof made to any County Court, and due proof thereof had, ſuch County Court ſhall levy upon the goods and chattels of the offenders, the full penalty incurred, to be applied to leſſening the levy of the County wherein ſuch offence ſhall be committed. *b*

Gameſters having no viſible means of ſupporting themſelves, may be bound to good behaviour or committed.

VII. AND whereas divers lewd and diſſolute perſons live at great expenſes, having no viſible eſtate, profeſſion, or calling to ſupport them, but by gaming only: *Be it therefore enacted*, That it ſhall be lawful for any two Juſtices of Peace in any County or Corporation, to cauſe to come or be brought before them, every perſon within their reſpective limits, whom they ſhall have juſt cauſe to ſuſpect to have no viſible eſtate, profeſſion, or calling to maintain himſelf by, but for the moſt part ſupporting himſelf by gaming; and if ſuch perſon ſhall not make it appear to ſuch Juſtices, that the principal part of his expenſes is not maintained by gaming, they ſhall require of him ſufficient ſecurities for his good behaviour for the ſpace of twelve months, and on refuſal there-

(*a*) 22 *Geo.* 2, *ch.* 25, *ſec.* 3, 4, 5. (*b*) *From* 1779, *ch.* 42, *ſec.* 2.

of, shall commit him to the common Jail, there to remain until he shall find such securities; and if such person shall give such securities, and afterwards within that time shall play or bet for any money or other valuable thing whatsoever, such playing or betting shall be a breach of the behaviour, and a forfeiture of the recognizance given for the same. *a*

Penalty on persons assaulting or challenging others on account of money, &c. won by gaming.

VIII. AND to prevent quarrels happening by gaming, *It is hereby further enacted*, That if any person or persons shall assault and beat, or shall challenge or provoke to fight, any person or persons whatsoever, upon account of any money or other thing won by gaming or betting, the person and persons so assaulting, beating, challenging, or provoking to fight, being thereof convicted, shall forfeit to the party grieved thirty dollars, to be recovered with costs, by action of debt, in any County Court; and moreover shall be liable to the action of the party grieved, at the common Law. *a*

Punishment of cheats.

IX. *AND be it further enacted*, That if any person or persons whatsoever, do, or shall at any time or times by any fraud, shift, cozenage, circumvention, deceit, unlawful device, or evil practice whatsoever, in playing at, or with cards, dice, or any other game or games, or in, or by bearing a share or part in the stakes, wagers, or adventures, or in, or by betting on the sides or hands of such as do or shall play, win, obtain, or acquire to him or themselves, or to any other or others, any sum or sums of money, or other valuable thing or things whatsoever, every person so winning by such ill practice, and being thereof convicted upon indictment, or information, shall forfeit five times the value of the money or other thing so won, and shall be deemed infamous, and suffer such corporal punishment as in cases of wilful perjury; and such penalty shall be recoverable with costs by any person or persons suing for the same, by action of debt in any Court of Record in this Commonwealth, having cognizance thereof. *a*

Liberty of appeal from the judgment of the Justice to the county court.

X. *PROVIDED always*, That any person aggrieved by the judgment of any Justice of Peace upon any conviction for any of the offences in this Act cognizable before him, may appeal to the next Court to be held for the County where such person shall be convicted, but shall give reasonable notice of such appeal to the party prosecuting him or her, and shall also enter into recognizances with two sufficient securities, before some Justice of the County wherein the judgment was given, on condition to try such appeal at the next Court held for the same County after the entering such appeal, which shall be by the said Court then heard and finally determined: *Provided also*, that no such judgment shall be set aside for want of form, wherein it shall appear to the Court, that the facts were sufficiently proved at the trial, nor shall any judgment be removed or removable by appeal, or any writ or process whatsoever, into the District Court. *a*

Keepers of A B C, or E O tables, or Farro-banks, or other like tables or banks to be deemed vagrants. And their tables to be destroyed.

XI. ALL and every keeper or keepers, exhibitor or exhibitors, of either of the gaming tables, commonly called A. B. C. or E. O. tables, or of a Farro-bank, or of any other gaming table or bank of the same, or the like kind, under any denomination whatever, shall be deemed and treated as vagrants; and moreover, it shall and may be lawful for any Justice of the Peace, or Magistrate of any Corporation Court, by warrant under his hand, to order any such gaming table to be seized and publicly burnt or destroyed. *b*

Private lotteries prohibited.

XII. NO person in order to raise money for himself or another, shall publicly or privately put up a lottery of blanks and prizes, to be drawn or adventured for, or any prize or thing to be raffled or played for; and whoever shall offend herein, shall forfeit the whole sum of money proposed to be raised by such lottery, raffling, or playing, to the use of the Commonwealth. *c*

This act to be given in charge to grand juries.

XIII. THE presiding Justice as well in the District as in all the Inferior Courts of Law in this Commonwealth, shall constantly give this Act in charge to the Grand Juries of their Courts, at the times when such Grand Juries shall be sworn. *c*

Repealing clause.

XIV. EVERY Act, or clause in any Act concerning any matter within the purview of this Act, shall be, and is hereby repealed. *Provided always*, That nothing in this Act contained shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Proviso.

Commencement of this act.

XV. THIS Act shall commence and be in force, from and after the passing thereof.

(*a*) 22, *Geo.* 2, *ch.* 25, *sec.* 9, 10, 8, 7. (*b*) 1787, *ch.* 48, *sec.* 18. (*c*) *From* 1779, *ch.* 42, *sec.* 5.

CHAP. XCVII.

An Act againſt Champerty.

[Paſſed the 8th of December, 1792.]

Who are champertors.

I. BE *it enacted and declared, by the General Aſſembly*, That Champertors be they that move pleas and ſuits, and cauſe them to be moved, by their own procurement or by others, and ſue them at their own proper coſts and charges, to have a part of the land in variance, or part of the gains; and thoſe who are convicted thereof by the verdict of a Jury, ſhall be puniſhed, by impriſonment and amercement, at the diſcretion of the Jury before whom they ſhall have been found guilty, and ſuch amercement and impriſonment ſhall be aſcertained at the time of ſuch conviction. *a*

How they ſhall be puniſhed.

Commencement of this Act.

II. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. XCVIII.

An Act againſt Hog-Stealing.

[Paſſed the 8th of December, 1792.]

Puniſhment of hog-ſtealers not being ſlaves for the firſt offence.

I. BE *it enacted by the General Aſſembly*, That if any perſon not being a ſlave, ſhall ſteal any hog, ſhoat, or pig, he, or ſhe, ſhall, for the firſt offence, receive on his or her bare-back, twenty-five laſhes, well laid on, at the public whipping-poſt of the County where he or ſhe ſhall be convicted, or pay thirty dollars, to the uſe of the ſame County, towards leſſening that County levy, and ſhall moreover pay eight dollars for every ſuch hog, ſhoat, or pig, one half to the owner thereof, and the other half to the informer, to be recovered with coſts at the ſuit of the informer, by action of debt in any County Court within this Commonwealth; and in all ſuits to be brought, or informations filed, againſt any perſon not being a ſlave, for hog-ſtealing, it ſhall be lawful for the Court to rule the Defendant to give ſpecial bail, and to commit him or her to priſon, until he or ſhe ſhall give ſuch bail. *b*

When ſued for the penalty, the defendant may be ruled to give ſpecial bail.

Puniſhment for the ſecond offence.

II. AND if any perſon other than a ſlave, ſhall offend a ſecond time, and be thereof convicted, he, or ſhe, ſhall ſtand two hours in the pillory, on a Court day, at the Court-houſe of the County where ſuch conviction ſhall be, and have both ears nailed thereto, and at the end of two hours have the ears cut looſe from the nails, which judgment the reſpective County Courts of this Commonwealth, are hereby empowered to give, and to award execution thereupon: Saving always to the party concerned, liberty of appeal to the Diſtrict Court within whoſe juriſdiction ſuch County ſhall be; ſuch party giving bond with good ſecurity, in the ſum of one hundred dollars, for his or her perſonal appearance in the ſaid Court, according to the appeal, and to perform and abide their award; and moreover, every ſuch offender ſhall pay and ſatisfy eight dollars for every ſtolen hog, ſhoat, or pig, to the owner or informer, to be recovered as aforeſaid. And if there be ſeveral offenders in one and the ſame fact, although but one hog, ſhoat, or pig be ſtolen, each perſon may be particularly proſecuted, and upon conviction, ſhall be adjudged to ſuffer the puniſhment, and pay the whole fine as aforeſaid. *c*

Where there are ſeveral offenders in one fact, each of them liable to puniſhment.

If ſervants be convicted, the penalty to be paid by the maſter, & repaid by the ſervant.

III. IF any ſervant ſhall be convicted of hog-ſtealing, his or her maſter or owner, ſhall pay and ſatisfy eight dollars, to be recovered and divided as aforeſaid, whether it be for the firſt or ſecond offence, and ſhall be repaid for the ſame, and coſts of ſuit, by further ſervice of ſuch offender, after his or her time, due by indenture, contract, or former judgment ſhall be expired, at the rate of three dollars for one month's ſervice, and judgment ſhall be entered up accordingly.

How ſlaves ſhall be proſecuted and puniſhed for hog-ſtealing.

IV. WHEN any ſlave or ſlaves ſhall hereafter ſteal any hog, ſhoat, or pig, it ſhall be lawful for any Juſtice of Peace of the County where ſuch offence ſhall be committed, upon complaint or information thereof to him made, to cauſe ſuch offender or offenders, and the witneſs or witneſſes, to come before him; and if upon examination, any ſlave or ſlaves appear to be guilty, to commit him, her, or them, to priſon, or bind every ſuch offender with ſecurity, to appear perſonally before the Court next thereafter to be held for his County, to anſwer ſuch complaint or information, and to abide the judgment of the

(a) 33 *Edw'd* 1, *ſtat.* 2 *and* 3. *(b)* 1748, *ch.* 33. 1769, *ch.* 30, *ſec.* 2.
(c) 1748, *ch.* 33.

said Court; and the Justices thereof are hereby required to direct the person appointed to prosecute for the Commonwealth in the same Court, to exhibit a charge or complaint in writing against such slave or slaves for such offence, whereupon it shall be lawful for the said Court to hear and determine the matter of such charge or complaint without any Jury, and to receive as evidence against the slave or slaves so charged, the confession of the offender, the oath of one or more credible witnesses, or such testimony of Negroes, Mulattoes, or *Indians*, bond or free, as to them shall seem convincing; and if, in the opinion of such Court, the slave or slaves so charged, is, or are guilty, every such offender for the first offence, shall receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post; and upon a second conviction, shall stand two hours in the pillory, with both ears nailed thereto, and then cut loose, as is herein before directed. And if any Negro, Mulatto, or *Indian*, shall, upon due proof made, or pregnant circumstances appearing to any County Court, be found to have given false testimony, on the trial of any slave for the first or second offence of hog-stealing, every such offender, without further trial, shall be by such Court ordered to receive the same corporal punishment as the slave tried for hog-stealing would receive upon conviction. And the first Justice in commission, sitting at such trial, shall, before the examination of such Negro, Mulatto, or *Indian*, charge such evidence to speak the truth, and shall also inform him or her of the consequence of giving false testimony.

For the first offence.

For the second offence.

Punishment of false witnesses.

Third offence felony.

V. IF any person whatsoever, shall be the third time convicted of hog-stealing, every such offender shall be adjudged a felon. *a*

Bringing home, or carrying on board any vessel, hogs without ears, hog-stealing, unless the party proves his property.

VI. IF any person shall bring, or cause to be brought to his or her own house, or any other house, or on board of any ship, sloop, or other vessel, any hog, shoat, or pig, without ears, or shall receive any such, and not immediately discover the same to a Justice of the Peace, he or she so offending, shall be adjudged a hog-stealer: *Provided nevertheless*, that any person may bring, or cause to be brought to his or her own, or any other house, or on board any ship, sloop, or other vessel, his or her own swine, though without ears, he or she proving the same to be his or her property. *a*

Indians' hogs to have the mark of their town.

VII. ALL tributary *Indians* keeping swine, shall give them the same mark, which hath been, or by the next adjacent County Court shall be allowed to the town to which such *Indians* respectively belong; and if any person not being an *Indian*, shall buy or receive from any *Indian* any pork, and cannot prove such pork to be of the proper mark of the town of *Indians*, to which the *Indian* of whom the same was bought or received, shall belong, he or she so offending, shall forfeit and pay twenty-five dollars, one half to the Commonwealth, and the other half to the informer; to be recovered with costs, by action of debt, in any Court of Record within this Commonwealth. *a*

Repealing clause.

Proviso.

VIII. ALL and every Act, clause and clauses of Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence, committed or done before the commencement of this Act.

Commencement of this Act.

IX. THIS Act shall commence in force, from and after the passing thereof.

CHAP. XCIX.

An Act to prevent Malicious Shooting, Stabbing, Maiming, and Disfiguring.

[Passed the 17th of December, 1792.]

Punishment for maiming or disfiguring another.

I. BE *it enacted by the General Assembly*, That if any person or persons shall unlawfully cut out or disable the tongue, put out an eye, slit a nose, bite, or cut off a nose, or lip, or cut off or disable any limb or member of any person whatsoever, within the Commonwealth; in so doing to maim or disfigure, in any of the manners before mentioned, such person, the person or persons so offending, their counsellors, aiders, and abettors, knowing of, and privy to the offence, shall be, and are hereby declared to be felons, and shall suffer as in case of felony. *b*

For shooting or stabbing another.

II. IF any person shall shoot, or stab any person within the Commonwealth, with an intent to maim, disfigure, or kill, the person or persons so offending,

(*a*) 1748, *ch.* 33. (*b*) 25 *Geo.* 2, *ch.* 6. 1788, *ch.* 28.

their counſellors, aiders, and abettors, knowing of, and privy to the offence, ſhall be, and are hereby declared to be felons, and ſhall ſuffer as in caſe of felony.

III. ALL other Acts, within the purview of this Act, ſhall be, and are hereby repealed. *Provided always*, That nothing in this Act contained, ſhall be conſtrued to repeal any Act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this Act. Repealing clauſe. Proviſo.

IV. THIS Act ſhall commence in force, from and after the paſſing thereof. Commencement of this Act

CHAP. C.

An Act declaring the Puniſhment of the Crime of Buggery.

[Paſſed the 10th of December, 1792.]

I. BE *it enacted and declared, by the General Aſſembly*, That if any do commit the deteſtable and abominable vice of Buggery, with man or beaſt, he or ſhe ſo offending, ſhall be adjudged a felon, and ſhall ſuffer death, as in caſe of felony, without the benefit of Clergy. *a* Puniſhment for buggery.

II. THIS Act ſhall commence in force, from and after the paſſing thereof. Commencement of this Act.

CHAP. CI.

An Act declaring the Puniſhment of Horſe-Stealers, and their Acceſſories, and reducing into one, the ſeveral Acts to encourage the Apprehenders of Horſe-Stealers.

[Paſſed the 10th of December, 1792.]

I. BE *it enacted and declared, by the General Aſſembly*, That if any perſon do feloniouſly take, or ſteal, any Horſe, Mare, or Gelding, Foal, or Filly, the perſon ſo offending, ſhall not be admitted to have or enjoy the benefit of Clergy, but ſhall be utterly excluded thereof, and ſhall ſuffer death as in caſe of felony. *b* Puniſhment of horſe ſtealers.

II. AND for as much as felons are much encouraged to ſteal Horſes, becauſe a great number of perſons make a trade to receive and buy of ſuch felons, the Horſes by them feloniouſly taken, and alſo do make it their buſineſs to conceal ſuch Offenders after the ſaid fact, knowing ſuch felonies to be by them committed: *Be it therefore enacted*, That if any perſon or perſons ſhall receive or buy any Horſe, that ſhall be feloniouſly taken or ſtolen from any other perſon, knowing the ſame to be ſtolen, or ſhall harbour or conceal any Horſe-Stealer, knowing him, her, or them to be ſo, ſuch perſon or perſons ſhall be taken and received as acceſſory or acceſſories to the ſaid felony; and being of either of the ſaid offences legally convicted, by the teſtimony of one or more credible witneſs or witneſſes, ſhall incur and ſuffer the pain of death as a felon convict. *c* Of their acceſſories.

III. *PROVIDED always*, That if any ſuch principal felon cannot be taken, ſo as to be proſecuted and convicted of any ſuch offence, yet, nevertheleſs, it ſhall and may be lawful to proſecute and puniſh every ſuch perſon and perſons, buying or receiving any Horſes ſtolen by any ſuch principal felon, knowing the ſame to be ſtolen, as for a miſdemeanor, to be puniſhed by fine and impriſonment, or other ſuch corporal puniſhment as the Court ſhall think fit to inflict, although the principal felon be not before convict of the ſaid felony; which ſhall exempt the Offender from being puniſhed as acceſſory, if ſuch principal felon ſhall be afterwards taken and convicted. *c* How the acceſſories may be puniſhed if the principals be not convicted.

IV. WHOSOEVER ſhall apprehend one charged with Horſe-Stealing, if the priſoner be convicted of that crime, ſhall be entitled to a reward of twenty pounds† from the Treaſury, upon a certificate from any of the Diſtrict Courts of this State, that the claimant was the apprehender, and either that he was not examined as a witneſs at the trial, or that the other evidence then given was ſufficient, without his teſtimony, to convict the priſoner. *d* Reward for apprehending a horſe-ſtealer

V. THE legal repreſentative of any perſon killed in endeavouring to apprehend any Horſe-ſtealer, ſhall receive the ſum of one hundred and ſeventy dol- Reward of executors, &c. of perſons killed

(*a*) *Stat.* 25, *II.* 8, *ch.* 6. (*b*) *Stat.* 37, *H.* 8, *ch.* 8, 2 & 3. *Ed.* 6, *ch.* 33. (*c*) 1748, *ch.* 34, *ſec.* 14, 15. † *Encreaſed from* £. 5 (*d*) *From* 22 *G.* 2, *ch.* 44, *ſec.* 11. 1786, *ch.* 47. 1789, *ch.* 1.

in purſuit of, or in taking a horſe-ſtealer.

lars, to be paid by the Treaſurer, upon the order of the Auditor, which he is hereby directed to iſſue, upon a certificate delivered under the hands and ſeals of two Juſtices of the Peace of the County where the fact was committed, that ſuch perſon was ſo killed; which certificate the ſaid Juſtices, upon ſufficient proof before them made, are required immediately to give. *a*

Repealing clauſe. Proviſo.

VI. ALL and every Act or Acts, Statute or Statutes, clauſe or clauſes of Acts, coming within the purview of this Act, (except as herein after provided) ſhall be, and the ſame are hereby repealed. *Provided nevertheleſs*, that nothing herein contained, ſhall be conſtrued to repeal any ſuch Statute or Acts, for ſo much of any of them, as may relate to any offence, within the purview thereof, committed or done before the commencement of this Act.

Commencement of this act.

VII. THIS Act ſhall commence in force, from and after the paſſing thereof.

CHAP. CII.

An Act providing for the Poor, and declaring who ſhall be deemed Vagrants.

[Paſſed the 20th of December, 1792.]

Overſeers of the poor, how and by whom to be elected.

I. BE *it enacted by the General Aſſembly*, That the Court of every County within this Commonwealth, after the expiration of the period during which the preſent Overſeers of the Poor for the reſpective Counties are to continue in office, under the laſt general election, or before that period, as hereinafter directed, ſhall cauſe their ſaid County to be laid off into convenient Diſtricts, not exceeding four in each County, and ſhall direct the Sheriff of the County to cauſe publication to be made, that on ſome day to be appointed by the ſaid Court, an election will be held within each Diſtrict, to conſiſt of freeholders and houſe-keepers only, for the purpoſe of chooſing three diſcreet and fit perſons, being freeholders of, and reſident within the ſame, who ſhall be called and denominated Overſeers of the Poor, and ſhall continue and be in office for and during the term of three years; at the expiration whereof, other triennial elections ſhall be made in the ſame manner, but the general elections ſhall in all caſes be computed from the firſt day of April, in the year in which they ſhall be made, notwithſtanding the time of ſervice ſhall thereby be made ſhorter than this Act directs. The County Court may at any ſeſſion within ſix months before the firſt day of *April*, which will be in the year in which the general election of Overſeers is to be held, enter into the meaſures directed by this Act for regulating the ſame, and may fix on ſome convenient day for holding the ſaid elections. *b*

To continue in office three years.

The county court to appoint a perſon to ſuperintend the election.

II. AND the ſaid Courts reſpectively, ſhall appoint ſome perſon in each Diſtrict, to ſuperintend the election; and if any perſon ſo appointed, ſhall refuſe, or neglect to ſerve, without reaſonable excuſe, he ſhall forfeit and pay for every ſuch refuſal or neglect, the ſum of thirty dollars, to be recovered for the uſe of the poor of the County, in any Court of Record, by action of debt or information founded on this Act, together with coſts. And the perſon who ſhall be appointed to ſuperintend any election, ſhall return the names of the perſon or perſons choſen, to the Clerk of the County, who ſhall thereupon iſſue a writ to the Sheriff of the County, commanding him that ten days before the enſuing Court day, he ſhall inform the ſaid perſon or perſons, that he or they hath or have been elected Overſeer or Overſeers of the Poor, and require him or them to appear at the next Court day, and make oath that he or they will truly and faithfully adminiſter the ſaid office. And any perſon being duly elected, who ſhall refuſe, or neglect to ſerve as an Overſeer of the Poor in the County of which he is an inhabitant, unleſs diſqualified by age or other infirmity, ſuch diſqualification to be judged of by the County Court, ſhall forfeit and pay thirty dollars; to be recovered with coſts, by action of debt or information, in any Court of Record within this Commonwealth: *Provided*, That no perſon ſhall be compelled to ſerve more than three years, nor be ſubject to the penalty for refuſing more than once in every term of nine years. *c*

Return to be made of the perſons elected.

Overſeers of the poor to be informed of their appointment. How qualified.

Penalty for refuſing to ſerve without a reaſonable excuſe.

Proviſo.

When they ſhall be appointed by the county courts.

III. WHENEVER it ſhall ſo happen that the perſon appointed to ſuperintend the election of Overſeers of the Poor in any Diſtrict, ſhall fail to attend agreeable to his appointment, or in caſe there be no election, on account of the non-attendance of the electors, or in caſe of the death, refuſal, or diſability of

(*a*) 22 *Geo.* 2, *ch.* 34, *ſec.* 11. (*b*) 1787, *ch.* 48. 1786, *ch.* 17. (*c*) 1785, *ch.* 4. 1788, *ch.* 53, *Amended in* 1797, *ch.* 9, *pa.* 8. 1787, *ch.* 48, *ſec.* 12.

any Overſeer or Overſeers of the Poor, the County Court ſhall, and they are hereby required, at their next Court, to fill any vacancy that may ſo happen, by appointing perſons to ſerve for the ſame time ſuch perſon or perſons ſhould otherwiſe remain in office. *a*

Overſeers to meet together annually, and levy the poor rate.

IV. THE Overſeers of the poor in every County, although in different Diſtricts, ſhall meet annually at ſome convenient place, to be appointed by a majority of them, on the firſt Monday in *March*; but if the number required by law ſhall not aſſemble on that day, it ſhall be lawful for a ſufficient number to meet and perform the buſineſs on any ſubſequent day in the ſaid month. The Overſeers of the poor of the different Diſtricts, if there be more than one in the County, ſhall bring with them to ſuch annual meeting, a diſtinct ſtate of the number, names, and ſituation of the poor, and an account of their expenditures in their reſpective Diſtricts; and a majority of the Overſeers of the poor in the County ſo meeting, and there being in ſuch majority at leaſt one Overſeer of the poor from each Diſtrict, ſhall chooſe a Preſident, and ſhall be empowered to regulate the neceſſary proviſions to be made for all the poor of the County, excluſive of the poor of any corporate town, for the ſucceeding year, as well as to adjuſt and ſettle the charges of ſupporting and maintaining the poor the preceding year, and to levy and aſſeſs upon all ſuch taxables of their County as are ſubject to County levies, except the inhabitants of any corporate town, and ſettle the amount of the poor rate upon each ſuch taxable in ſpecie; for which purpoſe the Clerk of the County ſhall furniſh the ſaid Overſeers with a certified copy of the liſt of all ſuch taxables in the County, excluſive of thoſe in any corporate town within the ſame, if any ſuch there be. *b*

To provide for the poor, lame, and blind.

V. THE Overſeers of each Diſtrict ſhall provide for the poor, lame, blind, and other inhabitants of the Diſtrict not able to maintain themſelves, and may alſo provide houſes, nurſes, and doctors, in ſuch caſes as they or a majority of them ſhall think neceſſary; the expenſes of which ſhall be provided for in the ſucceeding levy. *c*

County court may direct them to receive any poor perſon on their liſt.

VI. IF any poor perſon ſhall ſuppoſe that he or ſhe is entitled to the benefit of the laws for the relief of the poor, and the Overſeers of the Diſtrict in which he or ſhe reſides, ſhall refuſe to give ſuch perſon the benefit thereof, upon application of ſuch perſon, the County Court may, if they think proper, direct the Overſeers to receive him or her upon their liſts of poor. *c*

Poor perſons ſtrolling from one country to another, may be removed to that in which they were laſt legally ſettled.

VII. THE Overſeers of each Diſtrict ſhall take effectual meaſures to prevent the poor reſident within the ſame from ſtrolling into another County; and each of the Overſeers within a County, may make complaint before a Juſtice of the Peace, that any poor perſon or poor perſons, is, or are come into their County, and is, or are likely to become chargeable thereto; whereupon it ſhall be lawful for ſuch Juſtice, by warrant under his hand, to cauſe ſuch poor perſon to be removed to the County or Diſtrict, where he or ſhe was laſt legally ſettled; but if ſuch poor perſon be ſick or diſabled, and cannot be removed without danger of life, the Overſeers ſhall provide for his or her maintenance or cure, at the charge of their County, and after recovery, ſhall cauſe him or her to be ſo removed, and the County or Diſtrict wherein he or ſhe was laſt legally ſettled, ſhall repay all charges occaſioned by the ſickneſs, maintenance and cure of ſuch poor perſon, and for removing him or her, and alſo all charges and expenſes, if ſuch perſon ſhall die before removal. And if the Overſeers of the County or Diſtrict to which ſuch poor perſon belongs, ſhall refuſe to receive and provide for the perſon or perſons ſo removed, every Overſeer ſo refuſing, ſhall forfeit and pay ſixty dollars. And if the Overſeers of the poor where ſuch poor perſon was laſt legally ſettled, ſhall refuſe to pay and ſatisfy all the charges and expenſes aforeſaid, the ſame may be recovered from them by ſuit, to be brought in the names of the Overſeers by whom ſuch diſburſement may have been made, with the coſts of ſuch ſuit, in any Court of Record. *d*

Diſputes concerning reſidence of poor perſons how to be determined.

VIII. WHERE any diſpute ſhall ariſe reſpecting the reſidence of any poor perſons, the Court of any County adjacent, is authoriſed to take cognizance thereof, and to determine the ſame. *e*

Overſeers of the poor to make monthly returns to the county courts of the poor orphans, and of the children of perſons

IX. THE Overſeers of the poor of each Diſtrict ſhall monthly make returns to the Court of their County of the poor orphans in their Diſtrict, and of ſuch children within the ſame, whoſe parents they ſhall judge incapable of ſupporting them, and bringing them up in honeſt courſes; and the ſaid Court is hereby authoriſed to direct the ſaid Overſeers, or either of them, to bind out

(a) 1791, *ch.* 20. *(b)* 1787, *ch.* 48, *ſec.* 2. 1791, *ch.* 20, *ſec.* 2. *(c)* '86, *ch.* 17, *ſec.* 3. *(d)* 1748, *ch.* 13, *ſec.* 6. *(e)* 1785, *ch.* 17, *ſec.* 3.

unable to support them, and bind them apprentices.

such poor orphans and children apprentices to such person or persons as the Court shall approve of, until the age of twenty-one years, if a boy, or eighteen years, if a girl, on the terms prescribed and directed by the act, "*To reduce into one, the several Acts concerning Guardians, Orphans, Committees, Infants, Masters, and Apprentices.*" *a*

To appoint a collector of the poor rate, and take bond and security of him.

X. AND the Overseers of the poor shall also be, and they are hereby empowered and required, at their annual meeting, to appoint a collector of such County poor rate, and to take from him bond with sufficient security, in a sum double the amount of the sum to be collected by him, payable to their President, for the use of the said Overseers of the poor, to be applied towards lessening the County poor rate, and conditioned for the faithful and diligent collection of the said poor rate, and the payment to the several persons respectively entitled thereto, of the sums of money due to them according to the entries and accounts of the said Overseers of the poor, (a copy of which shall be delivered to such collector,) and also for settling with the said Overseers of the poor, or their successors, at the next annual meeting, a just and true account of all his receipts and disbursements, with proper vouchers, and paying whatever balance shall, upon such settlement, appear to be in his hands. *b*

Collector's commission.

When they may distrain for the poor rates.

XI. THE said collector shall be allowed the same commission for receiving the poor rate as the Sheriff is by Law allowed for receiving County levies, and shall be subject to the same rules and regulations, and shall have the power of distress in case of non-payment of any person chargeable therewith, immediately after the tenth day of *April* in every year. *b*

Sheriffs and serjeants bound to collect the poor rates if required.

XII. IT shall be the duty of the Sheriff of every County, and of the Serjeant of any City or Borough, if appointed by the Overseers of the poor to collect any poor rate, to collect and account for the same, and they shall be liable to all things required and imposed on a collector of such rate by Law. Any Sheriff or Serjeant refusing to undertake such collection, shall forfeit and pay the sum of one hundred and fifty dollars, to be recovered in manner aforesaid, for the use aforesaid. *c*

If the collector dies, another may be appointed.

XIII. IN case of the death of any person appointed to collect the poor rates at any time before his collection begins, the Overseers of the poor shall and may have power to assemble and appoint another collector, of whom they shall take bond with sufficient security, in the same manner as is directed to be taken of a collector appointed at their annual meeting; which collector shall have the same powers, and be subject to the same rules and regulations, and be moved against in the same manner, as other collectors of the poor rates. *d*

Collectors may appoint deputies.

Remedy against them for failing to settle their accounts or pay the money.

XIV. IT shall be lawful for such collector to appoint one or more deputies to assist him in the collection of the poor rate, for whose conduct he shall be answerable, which deputies shall have the same powers as the collector himself; and if such collector shall refuse or neglect to settle his accounts with the Overseers of the poor, as herein before directed, or shall fail or refuse to pay them any money which shall be in his hands, or in the hands of any of his deputies, or shall delay or refuse to pay off the several claims to the persons respectively entitled thereto, by order of two or more Overseers, on or before the first day of *September* annually, it may and shall be lawful for the Court of the County and Corporation wherein such collector was appointed, upon the motion of the Overseers of the poor, or of any of the persons having legal claims, to grant judgment against such collector and his securities, for the sums of money respectively due to the said Overseers, or to such legal claimants, with costs; provided such collector and his securities have ten days previous notice of such motion. And such collector shall have the same remedy and mode of recovery against his deputies, or either of them, and their securities respectively, for any sums of money which, by virtue of this Act, such collector may be subjected to the payment of, on account of the transactions of any of his deputies. *e*

Against the overseers of the poor for failing to pay the money to the persons intitled thereto.

XV. WHENSOEVER any Overseer or Overseers of the poor have, or may hereafter receive of the collectors of the poor rates, any money, and shall fail to pay the same to the person or persons entitled thereto, when demanded, such person or persons, their heirs, executors, or administrators, shall have the same remedy against such Overseer or Overseers, their heirs, executors, or administrators, as he, or they, might have had against the collector if the money had remained in his hands. *e*

Overseers to settle with their predecessors, and

XVI. THE Overseers of the poor at their annual meeting, shall be, and they are hereby empowered to settle the accounts of the former Overseers, and

(*a*) 1786, *ch.* 17, *sec.* 4. (*b*) 1787, *ch.* 48, *sec.* 3. (*c*) 1788, *ch.* 53. (*d*) 1791, *ch.* 20, *sec.* 5 (*e*) 1787, *ch.* 48, *sec.* 4. 1791, *ch.* 20, *sec.* 3, 4.

to receive from them any ſums of money which ſhall be in their hands, and to call upon the collector or collectors heretofore appointed by any Veſtry, or by any former Overſeers, for a ſettlement of their accounts, and payment for any balances which ſhall be in their hands; and on failure of ſuch payment, they ſhall have the ſame mode of recovery as is directed by this Act, for the recovery of money or tobacco in the hands of a collector of their own appointment. Whereſoever any former churchwarden, collector, or Overſeer of the poor is dead, or ſhall hereafter die, without ſettling his accounts and paying the balance due from him, his executors and adminiſtrators ſhall be liable to the ſame recovery as the churchwarden, collector, or Overſeer himſelf would have been ſubject to in his lifetime: Saving to ſuch executors and adminiſtrators, the benefit of all pleas, to which they may be by Law entitled. *a*

with the former collectors.

XVII. THE ſaid Overſeers of the poor ſhall alſo be, and are hereby empowered, to levy in the manner before directed, ſuch ſums of money as ſhall be neceſſary to pay any arrears which may be due and unpaid by any Parish or Diſtrict to individuals. *a*

To levy a ſufficient ſum to pay any arrears due.

XVIII. ALL the proceedings and accounts of the Overſeers of the poor ſhall be regularly entered in a book, and ſhall be ſigned by the members preſent at each annual meeting; and for this purpoſe the ſaid Overſeers of each County, or a majority of them, ſhall be, and are hereby empowered to appoint a Clerk, and at any time upon his miſbehaviour or neglect of duty, to remove him and appoint another in his ſtead, and to make ſuch Clerk an allowance not exceeding twenty dollars annually for his ſervices. *a*

Their proceedings and accounts to be entered in a book.

May appoint a clerk.

XIX. AT the ſaid annual meeting, each of the Overſeers of the County who are preſent, ſhall have a vote, and if upon any ſuch vote they be equally divided, the queſtion ſhall be decided in favor of that ſide on which the preſident ſhall have voted. *a*

How they ſhall vote.

XX. THE Overſeers of the poor, if they demand the ſame, ſhall be allowed one dollar each, to be charged in their account of other expenditures, for every day they ſhall attend the beforementioned annual meeting, and ſhall be ſubject to a penalty of two dollars for every day each of them reſpectively ſhall fail to attend the ſame, to be computed in both caſes from the firſt day of ſuch annual meeting during the continuance thereof; and their Clerk ſhall in like manner be ſubject to the penalty of two dollars for every day he ſhall fail to attend ſuch annual meeting, unleſs ſuch Overſeers of the poor, or their Clerk reſpectively, ſhall be prevented from attendance by ſickneſs, or other unavoidable accident; to be recovered with coſts by warrant before any Juſtice of the Peace for the County. *a*

Allowance to them.

Penalty for non-attendance.

Penalty on their clerk for non-attendance.

XXI. THE Courts of the ſeveral Counties within this Commonwealth, are hereby empowered and required upon application, to exempt from the payment of poor rates all ſuch perſons as from age or infirmities are, or may hereafter be entitled to an exemption from the payment of public taxes; and all thoſe perſons who have been exempted heretofore from the payment of public taxes, are hereby exempted from the payment of the ſaid poor rates. *b*

County courts may exempt perſons from payment of poor rates.

XXII. THE Overſeers of each Diſtrict ſhall in the month of *October*, in each year, ſettle their accounts with the County Court, and the money which ſhall remain in their hands, or in the hands of their collector, unappropriated, ſhall be deducted from the rate to be made for the enſuing year. And the Overſeers of each Diſtrict failing to render their accounts as aforeſaid, ſhall reſpectively be liable to a forfeiture of one hundred dollars for ſuch failure, to be recovered by an action of debt in their reſpective County Courts, commenced in the name of the Clerk of the ſaid Court, (at the expenſe of the County) to be applied towards leſſening the levy of ſuch County, and the Court of the County where the failure ſhall happen, are hereby directed to order the Attorney for the Commonwealth to inſtitute the ſuit. *c*

Overſeers annually to ſettle their accounts with the county courts.

Penalty for failure.

XXIII. IF any ſingle woman not being a ſervant or ſlave, ſhall be delivered of a baſtard child, which ſhall be chargeable, or likely to become chargeable to any County, and ſhall upon examination before any Juſtice of the Peace of the County, to be taken in writing upon oath, charge any perſon not being a ſervant, with being the father of ſuch baſtard child, it ſhall and may be lawful for any Juſtice of the Peace of the County, wherein the perſon ſo charged ſhall be a reſident or inhabitant, upon application made to him by the Overſeers of the poor, or any one of them of the County wherein ſuch child ſhall be born, to iſſue

How the fathers of baſtard children, born of free ſingle women, may be compelled to ſupport them.

(*a*) 1787, *ch.* 48, *ſec.* 5, 6, 7, 8, 10. (*b*) 1787, *ch.* 43, *ſec.* 1. (*c*) 1786, *ch.* 17, *ſec.* 5.

his warrant for the immediate apprehending the perſon ſo charged as aforeſaid, and for bringing him before ſuch Juſtice, or before any other Juſtice of the Peace of the County wherein he is a reſident or inhabitant; and the Juſtice before whom ſuch perſon ſhall be brought, is hereby authoriſed and required to commit the perſon ſo charged as aforeſaid, to the common Jail of his County, unleſs he ſhall enter into a recognizance, with ſufficient ſecurity, in the ſum of thirty dollars, upon condition to appear at the next Court to be held for ſuch County, and to abide and perform ſuch order or orders as ſhall be made by the ſaid Court. And if upon the circumſtances of the caſe, the Court ſhall adjudge the perſon ſo charged to be the father of ſuch baſtard child, and that ſuch child is likely to become chargeable to the County, they ſhall and may in their diſcretion take order for keeping ſuch baſtard child, by charging the father with the payment of money for the maintenance of ſuch child, in ſuch manner, and in ſuch proportions as they ſhall think meet and convenient, and for ſuch time as ſuch child is likely to become chargeable to the County, and no longer. And the father of ſuch child ſhall enter into a recognizance, with ſufficient ſecurity before the ſaid Court, in ſuch ſum as the ſaid Court in their diſcretion ſhall think fit, payable to the Governor of this Commonwealth for the time being, and his ſucceſſors, to obſerve and perform ſuch order or orders of the Court as aforeſaid. And if the father charged with the maintenance of ſuch baſtard child as aforeſaid, ſhall make default and not pay the money ſo as aforeſaid charged upon him by order of the ſaid Court, to the Overſeers of the poor, for the maintenance of ſuch child, the Court before whom the recognizance was entered into, ſhall from time to time, upon the motion of the Overſeers of the poor, or any one of them, enter up judgment and award execution for the money in ſuch order or orders mentioned, as the ſame ſhall become due againſt the ſaid father and his ſecurities, their executors, or adminiſtrators; provided ten days notice be given to the parties againſt whom ſuch motion is made, before the making thereof. And if the father of ſuch child ſhall refuſe to enter into recognizance as aforeſaid, ſuch father ſhall be committed by the ſaid Court to the Common Jail of the County, there to remain without bail or mainprize, until he ſhall enter into ſuch recognizance as aforeſaid, or until he ſhall diſcharge himſelf, by taking the oath of an inſolvent debtor, and delivering in a ſchedule of his eſtate in manner directed by the laws for debtors in execution, (and which eſtate ſhall by order of the Court be applied towards indemnifying the County,) or until the Overſeers of the poor ſhall conſent to his diſcharge. *a*

No woman while pregnant, to be queſtioned by the juſtices concerning her pregnancy.

XXIV. *PROVIDED always*, That it ſhall not be lawful for any Juſtice or Juſtices of the Peace, to ſend for any woman whatſoever, before ſhe ſhall be delivered, in order to her being examined concerning her pregnancy, or to compel her to anſwer any queſtions relating thereto before her delivery. *a*

Baſtard children may be bound apprentices by the overſeers of the poor.

XXV. EVERY baſtard child may be bound apprentice by the Overſeers of the poor of the Diſtrict for the time being wherein ſuch child ſhall be born; every male until he attains twenty-one years, and every female until ſhe attains eighteen years, and no longer; and the maſter or miſtreſs ſhall be ſubject to the ſame conditions as are preſcribed in the caſe of an apprentice, by the Act, intituled, "*An Act to reduce into one, the ſeveral Acts concerning guardians, orphans, committees, infants, maſters, and apprentices.*" *a*

Vagrants how to be treated, when found within any county.

XXVI. THE Overſeers of the poor, or any one of them, ſhall be, and are hereby empowered, upon diſcovering any vagrant or vagrants within their reſpective Diſtricts, to make information thereof to any Juſtice of the Peace for the County, and to require a warrant for apprehending ſuch vagrant or vagrants, to be brought before him, or ſome other Juſtice of the Peace for the ſaid County; and if upon due examination, it ſhall appear to ſuch Juſtice, that the perſon or perſons are within the true deſcription of a vagrant, as hereinafter mentioned, ſuch Juſtice ſhall, by warrant under his hand, order ſuch vagrant or vagrants to be delivered to ſome one of the Overſeers of the poor of the Diſtrict in which ſuch vagrant or vagrants ſhall have been apprehended, to be employed in labor for any term not exceeding three months, and by the ſaid Overſeer of the poor hired out for the beſt wages that can be procured, to be applied to the uſe of the poor. And if any ſuch vagrant or vagrants ſhall during ſuch time of ſervice, run away from the perſon ſo employing him or them, he or they ſhall be dealt with in the ſame manner as other run-away ſervants. *b*

(*a*) 1769, *ch.* 27. (*b*) 1787, *ch.* 48, *ſec.* 13.

Corporation courts to provide for their own poor.

XXVII. THE Corporation Courts of the ſeveral corporate towns within this Commonwealth, ſhall be, and they are hereby reſpectively empowered and required, to provide for and maintain the poor within the limits of their reſpective towns, ſeparately and diſtinctly from the poor of the County; and any two Magiſtrates of any ſuch Corporation Court, ſhall be, and are hereby empowered by warrant, under their hands, to cauſe to be removed any poor perſon to the laſt place of his or her legal reſidence, who hath not been reſident within the limits of ſuch town for one year laſt paſt before ſuch removal. And in like manner the Overſeers of the poor within the County, ſhall be, and they are hereby empowered, by warrant under the hands of any two of them, to cauſe to be removed into any corporate town, any poor perſon whoſe reſidence ſhall have been within the limits of ſuch town for one year laſt paſt before ſuch removal; except in both caſes ſuch poor perſons only as have been lodged in any poor-houſe at any time during the laſt two years, who ſhall be reſpectively returned to, and maintained by the County or Town, according to their reſpective uſual reſidence in either. *a*

Any two magiſtrates thereof may remove poor perſons to the places of their legal reſidence.

Overſeers of the poor of a county may remove to any corporation, any poor perſon belonging thereto.

County and corporation courts may provide poor-houſes.

XXVIII. THE ſeveral County and Corporation Courts, ſhall be, and they are hereby reſpectively empowered, whenever they ſhall judge it neceſſary, to provide or build a poor-houſe and work-houſe for the reception of their poor, and for the reformation of vagrants, and to employ a proper perſon or perſons as ſtewards or managers thereof, ſubject to the direction and controul of ſuch Corporation Court. *a*

Corporations to levy annually, money for the ſupport of their poor.

XXIX. AND the ſaid Corporations ſhall be, and they are hereby reſpectively empowered and required, to levy and aſſeſs annually upon their reſpective towns, either by way of poll-tax upon the inhabitants, or by a tax upon houſes or other property within the limits of the town, as they ſhall judge beſt, all charges incurred for the ſupport and maintenance of their poor; and alſo the charges which may be incurred in providing or building a poor-houſe and work-houſe, and in the government and management of the ſame. *a*

Inhabitants thereof not freeholders in the county, not to vote for overſeers of the poor.

XXX. THE inhabitants of any ſuch corporate town not having a freehold eſtate in the County without the limits of the town, ſhall be diſabled from voting in any election of the Overſeers of the poor in the reſpective Counties, nor ſhall any inhabitant of any Corporate town be capable of ſerving as an Overſeer of the poor in any County. *a*

Vagrants how to be treated when found within a corporation.

XXXI. IT ſhall and may be lawful for any Magiſtrate of any ſuch Corporation Court, upon diſcovering any vagrant or vagrants within the limits of the town, to iſſue his warrant for apprehending ſuch vagrant or vagrants for examination; and if upon ſuch examination before two Magiſtrates of the Corporation Court it ſhall appear that the perſon or perſons ſo apprehended are within the true deſcription of a vagrant as hereinafter mentioned, the ſaid two Magiſtrates ſhall be, and are hereby empowered, by warrant under their hands, to commit ſuch vagrant or vagrants to the work-houſe, there to be employed in labor for any term not exceeding three months; and if there be no work-houſe in ſuch town, the ſaid two Magiſtrates may, and they are hereby empowered to proceed with ſuch vagrant or vagrants in the ſame manner as the Overſeers of the poor are herein before directed to proceed upon any vagrant or vagrants being delivered to them. *a*

Who ſhall be deemed vagrants.

XXXII. ANY able bodied man, who, not having wherewithal to maintain himſelf, ſhall be found loitering, and ſhall have a wife or children, without means for their ſubſiſtence, whereby they may become burthenſome to their County or Town; and any able bodied man without a wife or child, who, not having wherewithal to maintain himſelf, ſhall wander abroad, or be found loitering without betaking himſelf to ſome honeſt employment, or ſhall go about begging, ſhall be deemed and treated as a vagrant.† *a*

Part of a former law concerning them repealed.

XXXIII. SO much of the clauſe reſpecting vagrants or idle perſons not having wherewithal to maintain themſelves in the Act, intituled, "*An Act concerning ſeamen*," as is contrary to this Act, ſhall be, and is hereby repealed. *a*

Penalties and forfeitures how appropriated.

XXXIV. ALL the forfeitures and penalties inflicted by this Act, ſhall be, one half to the informer, and the other half to the uſe of the Overſeers of the poor for the County, to be applied by them towards the ſupport and maintenance of ſuch poor, unleſs where by this Act it is otherwiſe directed. *a*

(*a*) 1787, *ch.* 48, *ſec.* 14, 15, 16, 17, 20, 19. † *Keeper of A. B. C. and E. O. &c. &c. of a Faro-bank, ſhall be deemed vagrants. See ante, ch.* 90.

What shall be deemed a legal settlement.

XXXV. AND for determining what shall be accounted a legal settlement within this Act, *It is hereby enacted and declared*, that no person shall be accounted an inhabitant so as to have gained a legal settlement, until such person shall have been actually resident in the County wherein he shall claim a legal settlement for the space of one whole year. *a*

Fines, &c. appropriated towards lessening the county levies, how to be collected.

XXXVI. ALL fines and forfeitures hereafter to be inflicted under any penal law, which are appropriated to the use of the County, towards lessening the levy for the support of the poor, shall be collected, levied, accounted for, and paid by the Sheriffs of the Counties to the Overseers of the poor in their several Counties respectively, in like manner, and subject to the same remedy and proceedings against them for default, as the collectors appointed by virtue of this Act are subject to, in default of collecting the levies imposed by virtue thereof. *b*

Arrearages due to parishes, how recoverable.

XXXVII. THE trustees of any religious society shall have full power and authority to prosecute all suits heretofore instituted, and now depending upon bond or otherwise, for any arrearages due to the different parishes within this Commonwealth. *c*

Repealing clause.

XXXVIII. ALL and every Act or Acts, clause or clauses of Acts, containing any thing within the purview of this Act, shall be, and the same are hereby repealed.

Proviso.

XXXIX. *PROVIDED nevertheless*, That all rights, remedies, fines, penalties, and forfeitures, incurred or accruing under any former Act, shall remain in the same condition as if this Act had not been made. *And provided also*, that nothing herein contained shall be construed in any manner to alter or repeal one Act of General Assembly, passed on the twelfth day of *December*, one thousand seven hundred and ninety-one, intituled, "*An Act concerning the poor of the Parish of Suffolk, in the County of Nansemond.*"

Commencement of this act.

XL. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIII.

An Act to reduce into one, the several Acts concerning Slaves, Free Negroes and Mulattoes. †

[Passed the 17th of December, 1792.]

Who shall be deemed slaves.

I. BE *it enacted by the General Assembly*, That no persons shall henceforth be slaves within this Commonwealth, except such as were so on the seventeenth day of *October*, in the year one thousand seven hundred and eighty-five, and the descendants of the females of them. *d*

When slaves hereafter imported shall be free.

II. SLAVES which shall hereafter be brought into this Commonwealth, and kept therein one whole year together, or so long at different times as shall amount to one year, shall be free. *d*

Penalties on the importers of slaves, and on the sellers and buyers.

III. EVERY person hereafter importing slaves into this Commonwealth, contrary to this Act, shall forfeit and pay the sum of two hundred dollars for every slave so imported; and every person selling or buying any such slaves, shall in like manner forfeit and pay the sum of one hundred dollars for every slave so sold or bought; one moiety of which forfeitures shall be to the use of the Commonwealth, and the other moiety to him or them that will sue for the same; to be recovered by action of debt or information in any Court of Record. *e*

Exceptions in favor of emigrants from any of the United States taking a certain oath within a limited time.

IV. *PROVIDED*, That nothing in this Act contained, shall be construed to extend to those who may incline to remove from any of the United States and become citizens of this, if within sixty days after such removal he or she shall take the following oath before some Justice of the Peace of this Commonwealth: *f*

(a) 1748, *ch.* 13, *sec.* 5. *(b)* 1791, *ch.* 20, *sec.* 7. *(c)* 1788, *ch.* 53, *sec.* 4.

† *See act of* 1795, *ch.* 14, *giving remedy to persons illegally detained in slavery. See acts of* '96, *ch.* 11, *allowing persons carrying slaves from this into another state, to bring them back.* 1797, *sec.* 3, *of ch.* 4, *directs that suits brought by slaves to recover their freedom, shall be tried at next court succeeding such suit, unless evidence cannot be obtained. See act passed Dec. sess.* 1800, *ch.* 70; *another act of Dec. sess.* 1801, *pa.* 16, *ch.* 21. *(d)* 1785, *ch.* 77, *sec.* 1. *(e)* Oct. '78, *ch.* 1, *sec.* 2. *(f)* '85, *ch.* 77, *sec.* 5.

I, A. B. *do ſwear, that my removal into the State of* Virginia, *was with no intent of evading the laws for preventing the further importation of ſlaves, nor have I brought with me any ſlaves, with an intention of ſelling them, nor have any of the ſlaves which I have brought with me, been imported from* Africa, *or any of the* Weſt India *Iſlands, ſince the firſt day of* November, *one thouſand ſeven hundred and ſeventy-eight.* So help me GOD.

And of citizens claiming ſlaves by deſcent, deviſe, or marriage, or being now the owners & removing them from another ſtate, and travellers carrying them out again.

Nor to any perſons claiming ſlaves by deſcent, marriage or deviſe; nor to any citizens of this Commonwealth, being now the actual owners of ſlaves within any of the United States and removing ſuch hither; nor to travellers and others making a tranſient ſtay, and bringing ſlaves for neceſſary attendance, and carrying them out again. *a*

In what caſes negroes or mulattoes may or may not be witneſſes.

V. NO negro or mulatto ſhall be a witneſs, except in pleas of the Commonwealth againſt negroes or mulattoes, or in civil pleas, where negroes or mulattoes alone ſhall be parties. *a* †

Slaves not to go from home, without paſſes.

VI. NO ſlave ſhall go from the tenements of his maſter or other perſon with whom he lives, without a paſs, or ſome letter or token, whereby it may appear that he is proceeding by authority from his maſter, employer, or overſeer: If he does, it ſhall be lawful for any perſon to apprehend and carry him before a Juſtice of the Peace, to be by his order puniſhed with ſtripes, or not, in his diſcretion. *a*

Coming on the plantations of others without leave from their maſters, may be whipped.

VII. AND if any ſlave ſhall preſume to come and be upon the plantation of any perſon whatſoever, without leave in writing from his or her owner, or overſeer, not being ſent upon lawful buſineſs, it ſhall be lawful for the owner or overſeer of ſuch plantation, to give or order ſuch ſlave ten laſhes on his or her bare back for every ſuch offence. *b*

Negroes and mulattoes not to keep or carry arms.

VIII. NO negro or mulatto whatſoever ſhall keep or carry any gun, powder, ſhot, club, or other weapon whatſoever, offenſive or defenſive, but all and every gun, weapon, and ammunition found in the poſſeſſion or cuſtody of any negro or mulatto, may be ſeized by any perſon, and upon due proof thereof made before any Juſtice of the Peace of the County or Corporation where ſuch ſeizure ſhall be, ſhall by his order be forfeited to the ſeizor for his own uſe; and moreover, every ſuch offender ſhall have and receive by order of ſuch Juſtice, any number of laſhes not exceeding thirty-nine, on his or her bare back, well laid on, for every ſuch offence. *b*

Except thoſe living on the frontiers licenſed by the juſtices of the peace.

IX. *PROVIDED nevertheleſs*, That every free negro or mulatto, being a houſe-keeper, may be permitted to keep one gun, powder and ſhot; and all negroes and mulattoes, bond or free, living at any frontier plantation, may be permitted to keep and uſe guns, powder, ſhot, and weapons, offenſive or defenſive, by licenſe from a Juſtice of Peace of the County wherein ſuch plantation lies, to be obtained upon the application of free negroes or mulattoes, or of the owners of ſuch as are ſlaves. *b*

Who ſhall be deemed mulattoes.

X. EVERY perſon other than a negro, of whoſe grand-fathers or grandmothers any one is, or ſhall have been a negro, although all his other progenitors, except that deſcending from the negro, ſhall have been white perſons, ſhall be deemed a mulatto; and ſo every ſuch perſon who ſhall have one fourth part or more of negro blood, ſhall in like manner be deemed a mulatto. *c*

Puniſhment of ſlaves for riots, unlawful aſſemblies, ſeditious ſpeeches, &c.

XI. RIOTS, routs, unlawful aſſemblies, treſpaſſes and ſeditious ſpeeches by a ſlave or ſlaves, ſhall be puniſhed with ſtripes, at the diſcretion of a Juſtice of the Peace, and he who will, may apprehend and carry him, her, or them, before ſuch Juſtice. *d*

No perſon ſhall permit the ſlaves of others to remain on his plantation.

XII. AND to prevent the inconveniences ariſing from the meetings of ſlaves, *Be it further enacted*, That if any maſter, miſtreſs, or overſeer of a family, ſhall knowingly permit or ſuffer any ſlave not belonging to him or her, to be and remain upon his or her plantation above four hours at any one time, without leave of the owner or overſeer of ſuch ſlave, he or ſhe ſo permitting, ſhall forfeit and pay three dollars for every ſuch offence; and every owner or overſeer of a plantation, who ſhall ſo permit or ſuffer more than five negroes or ſlaves, other than his or her own, to be and remain upon his or her plantation or quarter at any one time, ſhall forfeit and pay one dollar for each negro or ſlave above that number; which ſaid ſeveral forfeitures ſhall be to the informer, and recoverable with coſts, before any Juſtice of Peace of the County or Corporation where ſuch offence ſhall be committed. *e*

(a) 1785, *ch.* 77, *ſec.* 2, 3. † *Altered by act of Dec. ſeſs.* 1800, *ch.* 70; *negroes or mulattoes, bond or free, are by that act made legal witneſſes againſt each other.* *(b)* 22, *Geo.* 2, *ch.* 31, *ſec.* 17, 18, 19. *(c)* 1785, *ch.* 78. *(d) Ib. ch.* 77, *ſec.* 4. *(e)* 22, *Geo.* 2, *ch.* 31, *ſec.* 13.

Proviso.

XIII. *PROVIDED always*, That nothing herein contained, shall be construed to prohibit the negroes or slaves of one and the same owner, though seated at different quarters, from meeting, with their owner's or overseer's leave, upon any plantation to such owner belonging, nor to restrain the meeting of slaves on their owner's or overseer's business at any public mill, so as such meeting be not in the night time, nor on a *Sunday*, nor to prohibit their meeting on any other lawful occasion, by license in writing from their owner or overseer, nor their going to church and attending divine service on the Lord's day, or any other day of public worship. *a*

Punishment of persons present at unlawful meetings of slaves, or harbouring others slaves.

XIV. IF any white person, free negro, mulatto, or *Indian*, shall at any time be found in company with slaves at any unlawful meeting, or shall harbour or entertain any slave without the consent of his or her owner, such person being thereof convicted before any Justice of the Peace, shall forfeit and pay three dollars for every such offence to the informer, recoverable with costs before such justice; or on failure of present payment, shall receive on his or her bare back twenty lashes, well laid on, by order of the Justice before whom such conviction shall be. *a*

Duty of justices, sheriffs, and other officers in suppressing unlawful meetings.

XV. AND every Justice of Peace, upon his own knowledge of such unlawful meeting, or information thereof to him made within ten days after, shall issue his warrant to apprehend the persons so met or assembled, and cause them to be brought before himself, or any other Justice of his County or Corporation, to be dealt with as this Act directs; and every Justice failing herein, shall forfeit and pay eight dollars for every such failure; and every sheriff, or other officer, who shall fail upon knowledge or information of such meeting, to endeavour to suppress the same, and bring the offenders before some Justice of Peace to receive due punishment, shall be liable to the like penalty of eight dollars; both which penalties shall be to the informer, and recoverable with costs by action of debt in any County or Corporation Court; and every under sheriff, serjeant, or constable, who upon knowledge or information of such meeting, shall fail to perform his duty in suppressing the same, and apprehending the persons so assembled, shall forfeit and pay four dollars for every such failure to the informer, recoverable with costs, before any Justice of the County or Corporation wherein such failure shall be. *a*

Penalty for dealing with a slave without his master's leave.

XVI. NO person whatsoever shall buy, sell, or receive of, to, or from a slave, any commodity whatsoever, without the leave or consent of the master, owner, or overseer of such slave. And if any person shall presume to deal with any slave without such leave or consent, he or she so offending, shall forfeit and pay to the master or owner of such slave, four times the value of the thing so bought, sold, or received, to be recovered with costs, by action upon the case in any court of record within this commonwealth, and shall also forfeit and pay the further sum of twenty dollars to any person who will sue for the same; to be recovered with costs, by summons and petition in the same manner as other debts not exceeding twenty dollars, nor under five dollars, in any court of record, or receive on his or her bare back thirty-nine lashes, well laid on, at the public whipping-post, but shall nevertheless be liable to pay the costs of such summons and petition.† *b*

Punishment of a negro or mulatto lifting his hand against a white person.

XVII. IF any negro or mulatto, bond or free, shall at any time lift his or her hand in opposition to any person not being a negro or mulatto, he or she so offending, shall, for every such offence, proved by the oath of the party before a Justice of the Peace of the County or Corporation, where such offence shall be committed, receive such punishment as the Justice shall think proper, not exceeding thirty lashes, on his or her bare back, well laid on, except in those cases when it shall appear to such Justice, that such negro or mulatto was wantonly assaulted, and lifted his or her hand in his or her defence. *c*

In what cases the courts may direct slaves to be castrated.

XVIII. IT shall not be lawful for any County or Corporation Court to order and direct castration of any slave, except such slave shall be convicted of an attempt to ravish a white woman, in which case they may inflict such punishment. *d*

Owner not barred of his remedy where his slave is killed, or dies

XIX. *PROVIDED always*, That nothing herein before contained shall be construed to bar the action of any person whose slave or slaves shall be killed by any other person or persons whatsoever, or shall die through the negligence of

(a) 22, *Geo.* 2 *ch.* 31, *sec.* 14, 15, 16. † *By act of Dec. sess.* 1801, *pa.* 16, *ch.* 21, *an additional penalty is imposed for dealing with slaves on sabbath.* *(b)* 1785, *ch.* 77, *sec.* 6. *(c)* *From* 22, *Geo.* 2, *ch.* 31, *sec.* 20. *(d)* *From* 10 *Geo.* 3, *ch.* 10, *c.* 1.

any ſurgeon or other perſon undertaking the diſmembering or cure of any ſlave ſo punished by order of Court; but every owner ſhall and may have the ſame remedy for the death and loſs of his or her ſlave or ſlaves, as he or ſhe might have had if this Act had never been made. *a*

through negligence of the ſurgeon undertaking to diſmember or cure him.

XX. AND whereas many times ſlaves run away and lie out hid and lurking in ſwamps, woods, and other obſcure places, killing hogs, and committing other injuries to the inhabitants of this commonwealth; *Be it therefore enacted*, that in all ſuch caſes, upon intelligence given of two or more ſlaves lying out as aforeſaid, any two Juſtices of the Peace of the County wherein the ſlaves are ſuppoſed to lurk or do miſchief, ſhall be, and are empowered and required by warrant, reciting their names and owners names if known, to direct the ſheriff of the ſaid County to take ſuch power with him, as he ſhall think fit and neceſſary for the effectual apprehending ſuch outlying ſlave or ſlaves, and go in ſearch of them, and upon their being apprehended to commit them to the jail of his County for further trial. *a*

Proceſs againſt outlying ſlaves.

XXI. IF any negro or other ſlave ſhall at any time conſult, adviſe, or conſpire to rebel, or make inſurrection, or ſhall plot or conſpire the murder of any perſon or perſons whatſoever, every ſuch conſulting, plotting, or conſpiring, ſhall be adjudged and deemed felony, and the ſlave or ſlaves convicted thereof, in manner hereinafter directed, ſhall ſuffer death, and be utterly excluded all benefit of clergy. *a*

Conſpiracy of ſlaves to rebel or murder, felony without clergy.

XXII. IF any negro or other ſlave ſhall prepare, exhibit, or adminiſter any medicine whatſoever, he or ſhe ſo offending, ſhall be judged guilty of felony, and ſuffer death, without benefit of clergy. *a*

Or to prepare or adminiſter medicine.

XXIII. *PROVIDED always*, That if it ſhall appear to the Court before whom ſuch ſlave ſhall be tried, that the medicine was not prepared, exhibited, or adminiſtered with an ill intent, nor attended with any bad conſequences, ſuch ſlave ſhall be acquitted. *a*

Proviſo.

XXIV. *AND provided alſo*, That nothing herein contained ſhall be conſtrued to extend to any ſlave or ſlaves adminiſtering medicines by his or her maſter's or miſtreſs's order in his or her family, or the family of another, with the mutual conſent of the owner of ſuch ſlave, and the maſter or miſtreſs of ſuch family. *a*

XXV. IF any maſter or owner of a ſlave, ſhall licenſe ſuch ſlave to go at large, and trade as a freeman, the maſter or owner ſhall forfeit and pay the ſum of thirty dollars for the uſe of the poor of the diſtrict where ſuch ſlave ſhall be found going at large and trading as aforeſaid, to be recovered by the Overſeers of the Poor, by action of debt, in any Court of record within this Commonwealth; and if after conviction ſuch ſlave ſhall be found ſo going at large and trading, the maſter or owner ſhall again be liable to the like penalty, to be recovered as aforeſaid, and ſo as often after conviction, as ſuch ſlave ſhall be found ſo going at large and trading. *b*

Penalty for ſuffering a ſlave to go at large and trade as a freeman.

XXVI. IF any perſon ſhall permit or ſuffer his or her ſlave to go at large, or hire him or herſelf out, it ſhall be lawful for any perſon to apprehend and carry every ſuch ſlave before a juſtice of peace in the County or Corporation where apprehended, and if it ſhall appear to the juſtice that ſuch ſlave comes within the purview of this Act, he ſhall order him or her to the jail of the County or Corporation, there to be ſafely kept until the next Court, when, if it ſhall be made appear to the Court that the ſlave ſo ordered to jail hath been permitted or ſuffered to hire him or herſelf out, contrary to the meaning of this Act, it ſhall be lawful for the Court, and they are hereby required, to order the ſheriff or other officer of the County or Corporation, to ſell and diſpoſe of every ſuch ſlave for ready money, at the next Court held for the ſaid County or Corporation, notice being given by the ſheriff or other officer at the Court-houſe door, at leaſt twenty days before the ſaid ſale.† *c*

Slaves ſuffered to go at large and hire themſelves out, may be apprehended and ſold.

XXVII. TWENTY-FIVE *per centum* upon the amount of the ſale of every ſlave ſo going at large or hiring out himſelf or herſelf, ſhall be applied by the Court ordering ſuch ſale towards leſſening the County levy, and the reſidue ſhall be paid by the ſheriff or other officer, after deducting five *per centum* for his trouble, and the jailor's fees, to the owner of ſuch ſlave. *c*

Proceeds of the ſales, how to be diſpoſed of.

XXVIII. IF any perſon ſhall hereafter be guilty of ſtealing or ſelling any free perſon for a ſlave, knowing the ſaid perſons ſo ſold to be free, and thereof

Felony without benefit of clergy to ſteal or ſell

(*a*) 22, *Geo.* 2, *ch.* 31, *ſec.* 25, 21, 2, 3, 4, 5. (*b*) 10, *Geo.* 3, *ch.* 19, *ſec.* 8.
† *Amended by act of Dec. ſeſs.* 1800, *ch.* 70, *and made more ſtrict.* (*c*) *May* 1782, *ch.* 32, *ſec.* 1. 2.

Free persons as slaves.

shall be lawfully convicted, the person so convicted shall suffer death without benefit of clergy. *a*

Or to steal any slave.

XXIX. IF any person or persons shall steal any negro or mulatto whatsoever out of, or from the possession of the owner or overseer of such slave, the person or persons so offending, shall be, and are hereby declared to be felons, and shall suffer death without benefit of clergy. *b*

How slaves shall be tried for criminal offences.

XXX. THE Justices of every County or Corporation, shall be justices of *oyer* and *terminer* for trying slaves charged with treason or felony, which trials shall be by five at least without juries upon legal evidence, at such times as the sheriffs or other officers shall appoint, not being less than five, nor more than ten days after the offenders shall have been committed to jail. No slave shall be condemned in any such case, unless all of the justices sitting upon his or her trial shall agree in opinion that the prisoner is guilty, after allowing him or her counsel in his or her defence, whose fee, amounting to five dollars, shall be paid by the owner of the slave: *Provided always*, That when judgment of death shall be passed upon any such offender, there shall be thirty days at least between the time of passing judgment and the day of execution, except in cases of conspiracy, insurrection, or rebellion.† *c*

To be allowed counsel.

Not to be executed until the expiration of thirty days after conviction, except in certain cases.

The value of slaves condemned and executed, or dying before execution, to be paid by the public.

XXXI. THE value of a slave condemned to die, who shall suffer accordingly, or before execution of the sentence perish, to be estimated by the justices triers, shall be paid by the public to the owner. One being detained in slavery, and having commenced an action to assert his freedom, shall be prosecuted and tried for any such crime in the same manner as a free man ought to be prosecuted and tried.‡ *c*

None interested to sit on trial of slaves.

XXXII. NO person having interest in a slave shall sit upon the trial of such slave. *c*

What shall be legal evidence against them.

XXXIII. AND for a declaration of what shall be deemed to be legal evidence in such cases, *It is further enacted*, that the Court may take for evidence the confession of the offender, the oath of one or more credible witnesses, or such testimony of negroes or mulattoes, bond or free, with pregnant circumstances, as to them shall seem convincing. *d*

How they shall be punished for offences within the benefit of clergy.

XXXIV. WHEN any negro or mulatto whatsoever shall be convicted of any offence, within the benefit of clergy, judgment of death shall not be given against him or her upon such conviction, but he or she shall be burnt in the hand by the jailor in open Court, and suffer such other corporal punishment as the Court shall think fit to inflict, except where he or she once had the benefit of this Act, and in those cases such negro or mulatto shall suffer death without benefit of clergy. *d*

Punishment of negroes or mulattoes for giving false testimony.

XXXV. WHERE any negro or mulatto shall be found upon due proof made, to any County or Corporation Court of this Commonwealth, to have given a false testimony, every such offender shall without further trial, be ordered by the said Court to have one ear nailed to the pillory, and there to stand for the space of one hour, and then the said ear to be cut off, and thereafter the other ear nailed in like manner, and cut off at the expiration of one other hour, and moreover to receive thirty-nine lashes on his or her bare back, well laid on, at the public whipping-post, or such other punishment as the Court shall think proper, not extending to life or limb; and at every such trial of slaves for capital offences, the person first named in the commission then sitting, shall before the examination of any negro or mulatto, not being a christian, charge such evidence to declare the truth; which charge shall be in the words following, to wit: *d*

A charge to such witnesses.

YOU are brought hither as a witness, and by the direction of the Law I am to tell you, before you give your evidence, that you must tell the truth, the whole truth, and nothing but the truth; and that if it be found hereafter that you tell a lie, and give false testimony in this matter, you must for so doing have both your ears nailed to the pillory and cut off, and receive thirty-nine lashes on your bare back, well laid on, at the common whipping-post.

(*a*) 1787, *ch.* 37, *sec.* 2. (*b*) 27, *Geo.* 2, *ch.* 2, *sec.* 28. † *By act of* 1799, *ch.* 58, *manner of holding called courts altered.* (*c*) 1786, *ch.* 58. 1790, *ch.* 64, *sec.* 1. ‡ *By act of Dec. sess.* 1800, *ch.* 43, *the Governor with advice of Council authorised to dispose of slaves condemned to die. Dec. sess.* 1801, *ch.* 4, *pa.* 8, *directs that the owners of such slaves shall be paid for them as soon as the Executive determine to sell or transport them.* (*d*) 22, *Geo.* 2, *ch.* 31, *sec.* 6, 8, 9.

How slaves may be emancipated.

XXXVI. IT shall be lawful for any person by his or her last will and testament, or by any other instrument in writing, under his or her hand and seal, attested and proved in the County or Corporation Court by two witnesses, or acknowledged by the party in the Court of the County where he or she resides, to emancipate and set free his or her slaves, or any of them, who shall thereupon be entirely and fully discharged from the performance of any contract entered into during servitude, and enjoy as full freedom as if they had been particularly named and freed by this Act. *a*

But may be taken by execution, to satisfy certain debts of their former masters.

XXXVII. *PROVIDED nevertheless*, That all slaves so emancipated, shall be liable to be taken by execution, to satisfy any debt contracted by the person emancipating them, before such emancipation is made.

Those of certain descriptions to be supported by their former masters.

XXXVIII. *PROVIDED always*, That all slaves so set free, not being in the judgment of the Court of sound mind and body, or being above the age of forty-five years, or being males under the age of twenty-one, or females under the age of eighteen years, shall respectively be supported and maintained by the person so liberating them, or by his or her estate; and upon neglect or refusal so to do, the Court of the County or Corporation where such neglect or refusal may be, is hereby empowered and required upon application to them made, to order the sheriff or other officer to distrain and sell so much of the person's estate, as shall be sufficient for that purpose. *a*

Copy of the instrument of emancipation to be delivered to the slave.

XXXIX. *PROVIDED also*, That every person by written instrument in his lifetime, or, if by last will and testament, the executors of every person freeing any slave, shall cause to be delivered to him or her a copy of the instrument of emancipation, attested by the Clerk of the Court of the County or Corporation, who shall be paid therefor by the person emancipating, eighty-three cents, to be collected in the manner of other clerk's fees. Every person neglecting or refusing to deliver to any slave by him or her set free, such copy, shall forfeit and pay thirty dollars; to be recovered with costs in any Court of Record, one half thereof to the person suing for the same, and the other to the person to whom such copy ought to have been delivered. *a*

Under a penalty.

Person emancipated travelling out of his county without such copy may be committed.

XL. IT shall be lawful for any justice of the peace to commit to the jail of his County or Corporation, any emancipated slave travelling out of the County of his or her residence, without a copy of the instrument of his or her emancipation, there to remain till such copy is produced and the jailor's fees paid. *a*

Failing to pay taxes and levies yearly, may be hired out.

XLI. IN case any slave so liberated, shall neglect in any year to pay all taxes and levies imposed, or to be imposed by law, the Court of the County or Corporation shall order the Sheriff or Serjeant to hire out him, or her, for so long time as will raise the said taxes and levies, provided sufficient distress cannot be made upon his or her estate. *a*

Reservation of the rights of others.

XLII. SAVING nevertheless to all and every person and persons, bodies politic or corporate, and their heirs and successors, other than the person or persons claiming under those so emancipating their slaves, all such right and title as they or any of them could or might claim if this Act had never been made. *a*

Slaves to be deemed personal estate.

XLIII. ALL negro and mulatto slaves in all Courts of judicature within this Commonwealth, shall be held, taken and adjudged to be personal estate.

Penalty on widow removing dower slaves out of the state.

XLIV. IF any widow possessed of a slave or slaves, as of the dower of her husband, shall remove or voluntarily permit to be removed out of this Commonwealth, such slave or slaves, or any of their increase, without the consent of him or her in reversion, such widow shall forfeit all and every such slave or slaves, and all other the dower which she holds of the endowment of her husband's estate, unto the person or persons that shall have the reversion thereof; any law, custom, or usage to the contrary notwithstanding. *b*

On the husband of any person so endowed.

XLV. IF any widow possessed as aforesaid, shall be married to a husband, who shall remove, or voluntarily permit to be removed out of this Commonwealth, any such slave or slaves, or any of their increase, without the consent of him or her in reversion, in such case it shall be lawful for him or her in reversion to enter into, possess and enjoy all the estate which such husband holdeth in right of his wife's dower, for and during the life of the said husband. *b*

Slaves of an intestate may be sold where an equal division in kind cannot be made.

XLVI. WHERE one or more slaves shall descend from a person dying intestate, and an equal division thereof cannot be made in kind, on account of the nature of the property, it shall be lawful for the High Court of Chancery, or the Court of the County or Corporation, by which the administration to the estate of the intestate was granted, to direct the sale of such slave or slaves, and the distribution of the money arising therefrom, according to the rights of each

(*a*) *May* 1782, *ch.* 21. (*b*) 1785, *ch.* 61, *sec.* 22, 23.

claimant. *Provided always*, that each claimant shall be first duly summoned to shew cause if any he can against such sale. *a*

Gifts of slaves not valid except by will or deed, if the donor remains in possession.

XLVII. NO gift or gifts of any slave or slaves, shall be good or sufficient to pass any estate in such slave or slaves, to any person or persons whatsoever, unless the same be made by will, duly proved and recorded, or by deed, in writing, to be proved by two witnesses at the least, or acknowledged by the donor and recorded in the District Court, or the Court of the County or Corporation where one of the parties lives, within eight months after the date of such deed or writing. *b*

XLVIII. THIS act shall be construed to extend only to gifts of slaves, whereof the donors have, notwithstanding such gifts, remained in the possession, and not to gifts of such slaves as have at any time come into the actual possession of, and have remained with the donee, or some person claiming under such donee. *c*

Proviso respecting former adjudications.

XLIX. *PROVIDED always*, That nothing in this Act contained, shall be construed to alter any adjudication heretofore made, nor to affect the interest of any *bona fide* purchaser, for a valuable consideration, or creditor of the donor, before the donee hath been at least three years in possession of the slave or slaves under such gift, nor in any manner to restrain or affect the operation of the act of limitation. *c*

Penalty on a master of a vessel, carrying a servant or slave out of the state, without the owner's consent.

L. NO master of any ship, or any other vessel, shall transport or carry any servant whatsoever, or any negro, mulatto, or other slave out of this Commonwealth, without the consent or permission of the person or persons to whom such servant or slave doth of right belong, upon penalty of forfeiting and paying one hundred and fifty dollars for every servant, and three hundred dollars for every slave transported or carried hence, contrary to this act; one moiety to the Commonwealth, and the other moiety to the owner of such servant or slave, to be recovered with costs, by action of debt or information, in any Court of record of this Commonwealth; and moreover, such master shall be liable to the suit of the party grieved, at the common law, for his or her damages. *d*

In suits therefor the defendants may be ruled to give bail.

LI. IN any action which shall be brought against the master of a ship or vessel under this act, the Court wherein the same shall be depending, may rule the defendant to give special bail, if they see cause, and shall not allow him to plead in bar, or give in evidence any act or statute of limitation; any former or other law to the contrary, notwithstanding. *d*

Repealing clause. Proviso.

LII. ALL and every Act and Acts, clauses and parts of Acts, within the purview of this Act, shall be, and are hereby repealed. *Provided nevertheless*, That all rights, remedies, fines, penalties, and forfeitures incurred or accrued under any former Act, shall remain in the same condition as if this Act had not been made.

Commencement of this act.

LIII. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIV.

An Act to regulate the Solemnization of Marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen Marriages; and for Punishment of the Crime of Bigamy. †

[Passed the 22d of December, 1792.]

No person shall be married without license or publication of banns.

I. BE *it enacted*, That no minister shall celebrate the rites of matrimony between any persons, or join them together as man and wife, without lawful license, or thrice publication of banns according to the rubrick in the book of common prayer, if the parties so to be married shall be members of the Protestant Episcopal Church; and if the persons to be married dwell in several parishes, the banns shall be published in each parish, and the minister of the one shall not solemnize the matrimony, until he hath a certificate from the minister of the other parish, that the banns have been thrice published and no objection made against the parties joining together. And if any minister shall celebrate the rites of matrimony, or join any persons in marriage, without such license or publication of banns as by this act required, he shall, for every such

Penalty on ministers marrying without.

(*a*) 1790, *ch.* 18, *sec.* 2. (*b*) 1758, 32, *Geo.* 2, *ch.* 1, *sec.* 1. (*c*) 1787, *ch.* 22, *sec.* 2, 3. (*d*) 22, *Geo.* 2. *ch.* 17, *sec.* 1, 2. † Amended *post*, *ch.* 169, *and in* '96, *ch.* 28. *Since the passage of this act, several acts have passed allowing courts of certain counties to appoint persons to solemnize marriages.*

offence, be impriſoned one whole year without bail or mainprize, and ſhall alſo forfeit and pay fifteen hundred dollars. And if any miniſter ſhall go out of this government, and there join in marriage any perſon or perſons belonging to this Commonwealth, without ſuch licenſe or publication of banns, he ſhall be liable to the ſame penalties and forfeitures, as if ſuch marriage had been by him celebrated within this Commonwealth: *Provided always*, that where any pariſh or parishes have not a miniſter, the clerk or reader may publiſh banns, and if no objection be made, grant certificate thereof; which, together with a certificate under the hand and ſeal of a juſtice of the peace for the ſaid county, living in the parish where ſuch publication ſhall be, certifying that the *feme* ſo to be joined, hath been an inhabitant of the ſaid parish one month next before the date of ſuch certificate, ſhall be ſufficient for the miniſter to ſolemnize the rites of matrimony; and if any miniſter, clerk, or reader, ſhall grant or iſſue a falſe certificate, he ſhall ſuffer the impriſonment without bail, and pay the forfeiture aforeſaid; and ſhall alſo be liable to be proſecuted and punished as in caſe of forgery. And that all or any of the offences aforeſaid, may be proſecuted, tried and determined in any Court of record within this Commonwealth; which Courts are hereby declared to have cognizance thereof, and may hear and determine the ſame, and award execution thereupon, according to the courſe of the common law. *And provided alſo*, that all publications of the banns of matrimony on the weſtern waters of this Commonwealth, ſhall be made on three ſeveral days, and not in leſs time than two weeks, in open and public aſſemblies, convened for religious worſhip, or other lawful purpoſes, within the bounds of the reſpective congregations or militia companies, in which the parties to be married ſeverally reſide; and for a certificate of ſuch publication, the perſon making the ſame, may demand and receive fifty cents. *a*

By whom the banns may be publiſhed where there is no miniſter.

Penalty for granting a falſe certificate of the banns being publiſhed.

How they may be publiſhed on the weſtern waters.

II. IT ſhall and may be lawful for any ordained miniſter of the goſpel in regular communion with any ſociety of Chriſtians, and every ſuch miniſter is hereby authoriſed to celebrate the rites of matrimony according to the forms and cuſtoms of the church to which he belongs, between any perſons within this ſtate, between whom publication of banns ſhall have been duly made, or who ſhall produce a marriage licenſe purſuant to the directions of this Act, directed to any authoriſed miniſter of the goſpel. *b*

Every ordained miniſter to celebrate the rites of matrimony according to the forms of his church.

III. *PROVIDED always*, That every ſuch miniſter ſhall firſt produce credentials of his ordination, and alſo of his being in regular communion with the Chriſtian ſociety of which he is reputed a member, to the Court of the County or Corporation in which he reſides; ſhall take the oath of allegiance to this Commonwealth, and enter into bond, with two or more ſufficient ſecurities, in the ſum of fifteen hundred dollars, payable to the Governor for the time being, and his ſucceſſors, conditioned for the true and legal performance of this truſt: Whereupon ſuch Court is hereby required to grant ſuch miniſter a teſtimonial in the following form, given under the hand and ſeal of the then ſitting judge or ſenior magiſtrate, and atteſted by the Clerk, to wit:

How they are to obtain teſtimonials of their authority to ſolemnize marriages.

Form of the teſtimonial

THIS ſhall certify to all whom it may concern, that at a Court held for , on the day of , in the year one thouſand hundred and , A. B. produced credentials of his ordination, and alſo of his being in regular communion with the Church; took the oath of allegiance to this Commonwealth, and entered into bond as required by "An act to regulate the ſolemnization of marriages; prohibiting ſuch as are inceſtuous or otherwiſe unlawful; to prevent forcible and ſtolen marriages; and for puniſhment of the crime of bigamy;" and that he is thereby authoriſed to celebrate the rites of matrimony agreeable to the forms and cuſtoms of the ſaid Church, between any perſons to him regularly applying therefor within this State. Given under my hand and ſeal, the day and year above written.

Every teſtimonial ſo obtained, ſhall be taken as good and ſufficient authority for celebrating the rites of matrimony according to law. *Provided nevertheleſs*, that no teſtimonial ſhall be granted to any miniſter who is itinerant, or who is not ſtated and ſettled within ſome pariſh, or with ſome Chriſtian congregation within this Commonwealth. *b*

Not to be granted to itinerant miniſters.

IV. *PROVIDED alſo*, If any authoriſed miniſter ſhall himſelf at any time decline, or be ejected from his office by the Church to which he belongs; or any of his ſecurities ſhall give him notice in writing, that they deſire to be diſcharged from their ſuretyſhip, in either of theſe caſes, if he refuſes or neglects

When and how the ſecurities of an ordained miniſter may compel him to ſurrender his

(a) 1748, *ch.* 26. *(b)* *Oct.* 1784, *ch.* 76.

testimonial, or give them counter security.

to give up his testimonials to the Court from which they were obtained, any one of his securities, without instituting a suit, may proceed against him as if they were special bail in an action of debt, until he is thereunto compelled, or gives them sufficient caution for their indemnification. *a*

Quakers and Menonists, &c. may solemnize marriages in the manner heretofore practised.

V. IT shall and may be lawful for the people called Quakers and Menonists, or any other Christian society, that have adopted similar regulations in their Church, to solemnize their own marriages, or to be joined together as husband and wife, by the mutual consent of the parties openly published and declared before their congregations when convened for religious worship, in the manner, and agreeable to the regulations that have heretofore been practised in the respective societies. *a*

Certain marriages solemnized by magistrates, confirmed.

VI. AND whereas some magistrates and others, not authorised by law, have been induced by the want of ministers to solemnize marriages,

VII. *Be it enacted*, That all such marriages openly solemnized, and made at any time before the first day of *July*, one thousand seven hundred and eighty-five, and which shall have been made, consummated by the parties cohabiting together as husband and wife, shall be taken, and they are hereby declared good and valid in law; and all and every person or persons solemnizing such marriages, are and shall be exonerated from all pains and penalties, as if they had been authorised ministers. *Provided always*, and it is the true intent and meaning of this act, that nothing herein contained, shall extend or be construed to extend to confirm any marriage heretofore celebrated, or which may hereafter be celebrated between parties within the degrees of consanguinity or affinity, forbidden by law, or where either of the parties were bound by a prior marriage, to a husband or wife, then alive. *a*

Fee for a marriage.

VIII. INSTEAD of the fees heretofore prescribed by law, any authorised minister may demand and receive in current money for the celebration of every marriage, the sum of one dollar. *a*

Penalties on ministers, clerks, and readers, for refusing to marry, publish the banns, or exacting more than legal fees.

IX. IF any minister shall refuse to celebrate the rites of matrimony for the fees herein before allowed him, or shall exact other or greater fees; or if he or any parish reader or clerk, shall refuse to publish the banns, or to certify the same when required for the fee aforesaid, or exact any other or greater fee, every person so offending, shall forfeit and pay fifty dollars to the party grieved for every such offence, recoverable in any Court within this Commonwealth, by action of debt or information.

Marriages to be registered.

X. AND that a register of all marriages may be preserved; *Be it enacted*, that a certificate of every marriage hereafter solemnized, signed by the minister celebrating the same, or in the case of Quakers, Menonists, and other societies that solemnize their marriages by the consent of the parties taken in open congregation as aforesaid, by the clerk of the meeting, shall be by such minister or clerk, (as the case may be) transmitted to the Clerk of the County or Corporation, wherein the marriage is solemnized, within twelve months thereafter, to be entered on record by the Clerk, in a book by him to be kept for that purpose, which shall be evidence of all such marriages. The Clerk shall be entitled to demand and receive of the party so married, the sum of twenty-five cents for recording such certificate, and giving the bearer a receipt therefor. *a*

XI. EVERY minister or clerk of a congregation (as the case may be) failing to transmit such certificate to the Clerk of the Court in due time, shall forfeit and pay the sum of sixty dollars; and if the Clerk of any County shall fail to record such certificate, he shall forfeit and pay the like sum of sixty dollars, to be recovered with costs of suit, by the informer, in any Court of Record. *a*

Manner of issuing marriage licenses.

XII. EVERY license for marriage shall be issued by the Clerk of the Court of that County or Corporation wherein the *first* usually resides, in manner following, that is to say; the Clerk shall take bond, with good security, for the sum of one hundred and fifty dollars, payable to the Governor of the Commonwealth for the time being, and his successors, for the use of the Commonwealth, with condition that there is no lawful cause to obstruct the marriage for which the license shall be desired, and every Clerk failing herein, shall forfeit and pay one hundred and fifty dollars; and if either of the parties intending to marry shall be under the age of twenty-one years, and not theretofore married, the consent of the father or guardian of every such infant, shall be personally given before the said Clerk, or certified under the hand and seal of such father or guardian, attested by two witnesses, one of which witnesses shall personally appear

Where either of the parties is an infant.

(*a*) *Oct.* 84, *ch.* 76, *sec.* 2, 3, 4, 5, 7.

before the ſaid Clerk, and make oath, or affirmation (as the caſe may require) that he ſaw the father or guardian, whoſe name is annexed to ſuch certificate, ſubſcribe or acknowledge the ſame; and thereupon the Clerk ſhall iſſue a licenſe, and certify that bond is given, and every Clerk is hereby authoriſed to adminiſter ſuch oath, or affirmation, as aforeſaid; and if the parties or either of them be under the age aforeſaid, he ſhall alſo certify the conſent of the father or guardian, and the manner thereof, to any juſtice ſworn in the commiſſion of the peace, who is hereby authoriſed and required to ſign and direct the ſame: and every licenſe ſo obtained and ſigned, and no other whatſoever, is hereby declared to be a lawful licenſe; and if any County or Corporation Court Clerk ſhall in any other manner, iſſue or certify any marriage licenſe, or if any perſon whatſoever ſhall preſume to ſign or direct ſuch licenſe, in other manner, or without ſuch certificate, as is by this Act required, every perſon ſo offending, ſhall be impriſoned one whole year without bail or mainprize, and ſhall forfeit and pay fifteen hundred dollars, recoverable in any Court of record within this Commonwealth. *a*

Penalty for iſſuing or ſigning a licenſe contrary to this act.

XIII. IF any perſon whatſoever ſince the eighth day of *December*, one thouſand ſeven hundred and eighty-eight, hath, or at any time hereafter, ſhall marry within the following degrees, that is to ſay: If the ſon hath married, or ſhall marry his mother or ſtep-mother, the brother his ſiſter, the father his daughter, or his ſon's daughter, or his daughter's daughter, or if the ſon hath married, or ſhall marry the daughter of his father, begotten and born of his ſtep-mother, or the ſon hath married or ſhall marry his aunt, being his father's or his mother's ſiſter, or hath married or ſhall marry his uncle's wife, or the father hath married, or ſhall marry his ſon's wife, or the brother hath married, or ſhall marry his brother's wife, or any man hath married, or ſhall marry his wife's daughter, or his wife's ſon's daughter, or his wife's daughter's daughter, or his wife's ſiſter. every perſon or perſons ſo unlawfully married, ſhall be ſeparated by the definitive ſentence or judgment of the High Court of Chancery; and the Attorney General, upon any information made to him of any ſuch marriage, ſhall, and may exhibit a bill to the Judge of the ſaid Court, againſt any perſons ſo unlawfully married, who ſhall be compelled upon oath to anſwer the ſame; and upon ſuch bill and anſwer, and the depoſitions of witneſſes, where the ſame ſhall be neceſſary, the ſaid Court ſhall and may proceed to give judgment, and to declare the nullity of ſuch marriage, and moreover may punish the parties by fine; and if the Court ſee fit, may cauſe the parties to give bond with ſufficient ſecurity, that they will not cohabit hereafter, in ſuch penalty as the ſaid Court ſhall judge reaſonable: *Provided always*, that no punishment by fine ſhall be impoſed on any perſon until the ſame ſhall have been aſſeſſed by a jury, duly impannelled at the bar of the ſaid Court. *And provided alſo*, that nothing herein contained, ſhall be conſtrued to render illegitimate, the iſſue of any marriage ſo annulled. *b*

Marriages within certain degrees to be annulled, and the parties ſeparated.

Duty of the Attorney-General, when informed of any ſuch marriage.

XIV. IF any perſon or perſons within this Commonwealth, being married, or who ſhall hereafter marry, do at any time after the commencement of this Act, marry any perſon or perſons, the former huſband or wife being alive, every ſuch offence ſhall be felony, and the perſon or perſons ſo offending, ſhall ſuffer death as in caſes of felony; and the party and parties ſo offending, ſhall receive ſuch and like proceeding, trial, and execution within this Commonwealth, as if the offence had been committed in the county where ſuch perſon ſhall be taken or apprehended. *Provided*, that nothing herein contained, ſhall extend to any perſon or perſons whoſe huſband or wife ſhall be continually remaining beyond the ſeas by the ſpace of ſeven years together, or whoſe huſband or wife ſhall abſent him or herſelf, the one from the other, by the ſpace of ſeven years together, in any part within the United States of America or elſewhere, the one of them not knowing the other to be living within that time. *Provided alſo*, that nothing herein contained, ſhall extend to any perſon or perſons, that ſhall be at the time of ſuch marriage divorced by lawful authority, or any perſon or perſons where the former marriage hath been, or hereafter ſhall be by lawful authority, declared to be void and of no effect, nor to any perſon or perſons for or by reaſon of any marriage had or made, or hereafter to be had or made within age of conſent. *And provided alſo*, that no attainder for the offence made felony by this act, ſhall make or work any corruption of blood, or forfeiture of eſtate whatſoever. *b*

Felony to marry a ſecond time, the former huſband or wife being alive.

Proviſos.

(*a*) 1748, *ch.* 26, *ſec.* 2.—*Amended this ſeſſion.* (*b*) 1788, *ch.* 32, *ſec.* 34.

In what case a feme of 12 and under 14 years shall forfeit her inheritance by marrying.

XV. IF any *feme sole* of the age of twelve, and under fourteen† years, shall marry any person contrary to the will or consent of her father or guardian, and without legal publication of the banns, then the next of kin to such *feme*, to whom the inheritance should descend or come, shall have right to enter upon and take possession of all lands, tenements, hereditaments, and other real estate whatsoever, which such *feme*, at the time of her marriage had in possession, remainder, or reversion, and shall have, hold, occupy and enjoy the same to him or her, and the representatives of his or her stock, with all the immunities and privileges thereto belonging, during the time of such coverture; but after determination thereof, all such estate, and the possession, reversions and remainders, rights, immunities, and privileges, shall immediately revest, be, and remain in the said *feme*, and her heirs, other than her husband; and she and they, and every of them, may re-enter and take possession thereof, as if this act had never been made. *a*

Penalty for publishing banns, or marrying any servant without the master's consent.

XVI. IF any minister, clerk, or reader, shall wittingly publish the banns of marriage between any servants by act of Assembly, indenture or custom, or between any free person and such servant, or if any minister shall knowingly marry any such without certificate from the master or owner of every such servant, that it is with his or her consent, every minister, clerk, or reader, so offending, shall forfeit and pay two hundred and fifty dollars for every such offence, recoverable in any Court of Record of this Commonwealth; and every such servant, so married without consent of his or her master or owner, shall serve him or her, and his or her assigns, one whole year after all other time of service is expired, or pay him or her twenty dollars; and every free person so marrying such servant, shall pay the master or owner, twenty dollars for his or her own use, recoverable in any County or Corporation Court, with costs, or shall well and faithfully serve such master or owner one whole year in actual service. *b*

On servants marrying, and free persons marrying them.

Punishment of white persons marrying negroes or mulattoes.

XVII. AND for preventing white men and women intermarrying with negroes or mulattoes, *Be it enacted*, That whatsoever white man or woman, being free, shall intermarry with a negro or mulatto man or woman, bond or free, shall by judgment of the County Court, be committed to prison, and there remain six months, without bail or mainprize, and shall forfeit and pay thirty dollars, to the use of the parish. *c*

Penalty on minister marrying a white person to a negro or mulatto.

XVIII. NO minister or person whatsoever within this Commonwealth, shall hereafter presume to marry a white man with a negro or mulatto woman, or to marry a white woman with a negro or mulatto man, upon pain of forfeiting and paying for every such marriage, two hundred and fifty dollars, one half to the use of the Commonwealth, and the other half to the use of the informer; to be recovered with costs, by action of debt, bill, plaint, or information, in any Court of Record within this Commonwealth, wherein no essoin, protection, or wager of law, shall be allowed. *c*

Felony to take any woman unlawfully against her will.

XIX. AND whereas women, as well maidens as widows, and wives having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances, have been often times taken by misdoers contrary to their will, and afterwards married to such misdoers, or to others by their consent, or defiled: *Be it further enacted*, That whatsoever person or persons shall take any woman so against her will unlawfully, that is to say, maid, widow, or wife; such taking, and the procuring and abetting to the same, and also receiving wittingly the same woman so taken, against her will, shall be felony, and that such misdoers, takers, and procurers to the same, and receivers, knowing the said offence in form aforesaid, shall be reputed and judged as principal felons. *Provided always*, That this act shall not extend to any person taking any woman, only claiming her as his ward or bond-woman. *d*

Proviso.

Punishment for unlawfully taking a feme sole under 16 years from her father, mother, or others having the care of her.

XX. IF any person above the age of fourteen years, shall unlawfully take and convey away, or shall cause to be unlawfully taken or conveyed away, any maiden or woman-child unmarried, being within the age of sixteen years, out of, or from the possession, and against the will of the father or mother of such maiden or woman-child, or out of, or from the possession, and against the will of such person or persons as then shall happen to have by any lawful ways or means, the order, keeping, education or governance of any such maiden or woman-child, and being thereof duly convicted, shall suffer imprisonment, without bail

† *Altered from* 16 *years.* *(a) From* 1748, *ch.* 26, *sec.* 3. *(b)* 1748, *ch.* 26, *sec.* 4. *(c)* 1753, *ch.* 2, *sec.* 14. *(d)* 1789, *ch.* 8, *sec.* 1.

or mainprize, for any term not exceeding two years, as ſhall be adjudged againſt him. *a*

XXI. IF any perſon or perſons ſhall ſo take away, or cauſe to be taken away, as is aforeſaid, and deflower any ſuch maid or woman-child, as is aforeſaid, or ſhall, againſt the will or knowledge of the father of any ſuch maid or woman-child, if the father be in life, or againſt the will or knowledge of the mother of any ſuch maid or woman-child, having the cuſtody and governance of ſuch child, if the father be dead. by ſecret letters, meſſages or otherwiſe, contract matrimony with any ſuch maiden or woman-child, every perſon ſo offending, and being thereof lawfully convicted, ſhall ſuffer impriſonment of his body, by the ſpace of five years, without bail or mainprize. *a* For deflowering or marrying any ſuch feme ſo unlawfully taken.

XXII. ALL the fines which ſhall or may be impoſed by virtue of ſo much of this act, as relates to inceſtuous marriages, ſhall be to the uſe of the poor of the county wherein the offence or offences ſhall be committed; and one moiety of all the forfeitures ariſing under this act, and not otherwiſe appropriated, ſhall be to the uſe of the Commonwealth, and the other moiety to the party or parties who ſhall ſue for the ſame. *b* Appropriation of fines.

XXIII. ALL and every other Act and Acts, and clauſe or clauſes of Acts, for ſo much thereof as relates to any thing within the purview of this Act, (except as herein after provided) are hereby repealed, and made void. *Provided always*, that nothing in this Act contained, ſhall be conſtrued to repeal an Act, intituled, "*An Act concerning inceſtuous marriages*," or one other Act, intituled, "*An Act for the puniſhment of the crime of Bigamy*," or one other Act, intituled, "*An Act againſt forcible and ſtolen marriages*," for ſo much of either of them as relates to any offence within the purview thereof, committed or done before the commencement of this Act; but the ſaid recited Acts, as to all ſuch offences ſhall be, and remain in full force in the ſame manner as if this Act had never been made. Repealing clauſe. Proviſo.

XXIV. THIS Act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CV.

An Act to reduce into one, the ſeveral Acts concerning Mills, Mill-Dams, and other Obſtructions of Water-Courſes.

[Paſſed the 21ſt of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That when any perſon owning lands on one ſide of any water-courſe, the bed whereof belongeth to himſelf, or to the commonwealth, and deſiring to build a water griſt-mill on ſuch lands, and to erect a dam acroſs the ſame for working the ſaid mill, ſhall not himſelf have the fee ſimple property in the lands on the oppoſite ſide thereof, againſt which he would abut his dam, he ſhall make application for a writ of *ad quod damnum* to the Court of the County wherein the lands propoſed for the abutment are, having given ten days previous notice to the proprietor thereof, if he be to be found in the County, and if not, then to his agent therein, if any he hath, which Court ſhall thereupon order their Clerk to iſſue ſuch writ, to be directed to the Sheriff, commanding him to ſummon and impannel twelve fit perſons, to meet upon the lands ſo propoſed for the abutment, on a certain day to be named by the Court, and inſerted in the ſaid writ, of which notice ſhall be given by the Sheriff to the proprietor or his agent, as before directed, if neither of them were preſent in Court at the time of the order made. *c* Method of proceeding where the perſon deſirous of building a mill owns the land only on one ſide of the ſtream. Notice to be given to the proprietor of the oppoſite land.

II. THE freeholders taken, ſhall be charged by the ſaid Sheriff impartially and to the beſt of their ſkill and judgment, to view the ſaid lands ſo propoſed for an abutment, and to locate and circumſcribe, by certain metes and bounds, one acre thereof, having due regard therein to the intereſts of both parties, and to appraiſe the ſame, according to its true value; to examine the lands above and below, of the property of others, which may probably be overflowed, and to what damage it will be of to the ſeveral proprietors, and whether the manſion-houſe of any ſuch proprietor, or the offices, curtilage, or garden thereunto immediately belonging, or orchards, will be overflowed; to enquire whether, and in what degree fiſh of paſſage and ordinary navigation will be obſtructed; whether by any, and by what means ſuch obſtruction may Charge to the Jury.

(*a*) 1789, *ch.* 8, *ſec.* 2, 3. (*b*) 1788, *ch.* 32. (*c*) 1785, *ch.* 82, *ſec.* 1.

be prevented; and whether, in their opinion the health of the neighbours will be annoyed by the ſtagnation of the waters. *a*

On return of the inqueſt, the perſons concerned to be ſummoned.

III. THE inqueſt ſo made and ſealed by the ſaid jurors, together with the writ, ſhall be returned by the ſaid Sheriff to the ſucceeding Court, who ſhall thereupon order ſummonſes to be iſſued to the ſeveral perſons, proprietors, or tenants of the lands ſo located or found liable to damage, if they be to be found within the County, and if not, then to their agents therein, if any they have, to ſhew cauſe why the party applying ſhould not have leave to build the ſaid mill and dam. *a*

Where the lands on both ſides belong to the perſon intending to build a mill.

IV. IN like manner, if the perſon propoſing to build ſuch mill and dam, ſhall have the fee-ſimple property in the lands on both ſides the ſtream, yet application ſhall be made to the Court of the County wherein the mill-houſe will ſtand, for a like writ; which writ ſhall be directed, executed and returned, as preſcribed in the former caſe. *a*

In what caſes the court ſhall not give leave to build mills.

V. IF on ſuch inqueſt, or on other evidence, it ſhall appear to the Court that the manſion-houſe of any proprietor, or the offices, curtilage, or garden thereto immediately belonging, or orchards, will be overflowed, or the health of the neighbours be annoyed, they ſhall not give leave to build the ſaid mill and dam; but if none of theſe injuries are like to enſue, they ſhall then proceed to conſider whether, all circumſtances weighed, it be reaſonable that ſuch leave ſhould be given, and ſhall give, or not give it accordingly; and if given, they ſhall lay the party applying, under ſuch conditions for preventing the obſtruction, if any there will be, of fiſh of paſſage, and ordinary navigation, as to them ſhall ſeem right. *a*

Where they may at their diſcretion.

Party obtaining leave to pay the value of the land and the damages to the perſons intitled thereto.

To begin and finiſh his mill within certain periods.

VI. IF the party applying, obtain leave to build the ſaid mill and dam, he ſhall, upon paying reſpectively to the ſeveral parties entitled, the value of the acre located, and the damages which the jurors find will be done by overflowing the lands above or below, become ſeized in fee-ſimple of the ſaid acre of land. But if he ſhall not within one year thereafter, begin to build the ſaid mill, and finiſh the ſame within three years, and afterwards continue it in good repair for public uſe, or in caſe the ſaid mill or dam be deſtroyed, if he ſhall not begin to rebuild it within one year after ſuch deſtruction, and finiſh it within three years, the ſaid acre of land ſhall revert to the former proprietor and his heirs; unleſs at the time of ſuch deſtruction of the ſaid mill or dam, the owner thereof be an infant, *feme covert*, impriſoned, or of unſound mind; in which caſe, he ſhall be allowed the ſame terms for beginning and completing the ſaid mill or dam, after ſuch diſability removed. *a*

Actions, for damages not eſtimated by the jury, not barred by the inqueſt.

VII. THE inqueſt of the ſaid Jurors, nevertheleſs, or opinion of the Court, ſhall not bar any proſecution or action which any perſon would have had in law had this act never been made, other than for ſuch injuries as were actually foreſeen and eſtimated by the ſaid jury. *a*

How owners of mills may obtain leave to raiſe their dams.

VIII. WHEN any owner of a mill heretofore or hereafter eſtabliſhed by law, may think it neceſſary to raiſe his dam, the Court of the County wherein the pond lieth, upon application to them, ſhall grant a ſecond writ of *ad quod damnum*, to value the additional damage done thereby, under the ſame rules and regulations as are herein before directed.

Duty of millers. Toll.

IX. ALL millers ſhall well and ſufficiently grind the grain brought to their mills, and in due turn as the ſame ſhall be brought, and may take for the toll one eighth part, and no more, of all grain, of which the remaining part ſhall be ground into meal; and one ſixteenth part, and no more, of that, the remainder of which ſhall be ground into hommíny or malt. And every miller or occupier of a mill, who ſhall not well and ſufficiently grind as aforeſaid, or not in due time as the ſame ſhall be brought, or take or exact more toll, ſhall, for every ſuch offence, forfeit and pay two dollars and fifty cents to the party injured, recoverable with coſts, before a Juſtice of Peace of the County where ſuch offence ſhall be committed. And where the miller ſhall be an indented ſervant, or ſlave, he ſhall, upon the firſt conviction for ſuch offence, receive thirty lashes; and upon a ſecond conviction, fifty lashes, on his bare back, well laid on, in lieu of the forfeiture aforeſaid; but upon a third conviction, his maſter or owner ſhall be liable to pay two dollars and fifty cents, and ſo for every ſuch offence by ſuch ſervant or ſlave afterwards committed: *Provided*, That every owner or occupier of a mill, may grind his or her own grain at any time. *b*

Penalty for not grinding well and in due time, or for taking more than legal toll

Millers to keep ſealed meaſures and toll diſhes.

X. EVERY owner or occupier of a mill, ſhall keep therein ſealed meaſures of half bushel and peck, and a toll diſh ſealed, and ſhall meaſure all grain by

(*a*) 1785, *ch.* 82, *ſec.* 1, 2, 3, 4. (*b*) 1748, *ch.* 20, *ſec.* 9.

ſtrike meaſure, under the penalty of paying two dollars and fifty cents for every ſuch failure; recoverable with coſts, before a Juſtice of the Peace for the County wherein ſuch mill ſhall be, to the uſe of the informer. And if the miller be a ſlave or ſervant, his maſter or owner ſhall be liable to the penalty; or if the owner of ſuch mill ſhall not live within the ſame County, nor have any known attorney therein, the appearance of ſuch ſervant or ſlave before the Juſtice to whom ſuch complaint ſhall be made, ſhall be ſufficient for him to proceed againſt the maſter or owner, but if he, or ſhe, his, or her known attorney lives in the County, his, or her appearance ſhall be required. *a*

When they ſhall not keep hogs at large at their mills.

XI. NO owner or tenant of any mill, not having fifty acres of land adjoining thereto, ſhall keep any ſwine unincloſed at ſuch mill, on pain that the ſame ſhall be liable to be taken and converted to his own uſe by the proprietor or tenant of any adjacent lands, or by any other perſon authoriſed by them. *b*

Their duty where public roads paſs over their dams.

XII. THE owner or occupier of every dam over which a public road paſſes, ſhall conſtantly keep ſuch dam in repair, at leaſt twelve feet wide at the top through the whole length thereof, and ſhall keep and maintain a bridge of the like breadth with ſtrong rails on each ſide thereof over the pier head, flood gates, or any waſte, cut through or round the dam, under the penalty of one dollar and ſixty-ſeven cents for every twenty-four hours failure, but where a mill dam ſhall be carried away, or deſtroyed by tempeſt, or accident, the owner or occupier thereof, ſhall not be liable to the ſaid penalties from thenceforth until one month after ſuch mill ſhall have been ſo repaired as to have ground one buſhel of grain. *c*

Regulation reſpecting locks and ſlopes in the dams of mills already built.

XIII. WHERE the owner of any mill now ſtanding, or licenſed to be built, hath by any act of Aſſembly been compelled to make locks, ſlopes, or opening for navigation or the paſſage for fiſh, the ſame ſhall be continued under the conditions impoſed by ſuch act, and ſhall be deemed ſufficient in law, ſo long as the dam now ſtanding or building ſhall remain: But it ſhall not be lawful to rebuild ſuch dam in future, but on enquiry by jury into the obſtructions of fiſh and navigation, and the means of preventing the ſame, and the final order of the Court, to be applied for, and conducted in the manner before directed in other caſes. *d*

Navigation, or the paſſage of fiſh not to be obſtructed by dams, hedges, &c. without leave as in the caſe of mills.

XIV. IT ſhall not be lawful for any perſon to erect or fix on any water courſe, any dam, hedge, weir, ſeine, drag, or other ſtoppage, whereby navigation or the paſſage of fiſh may be obſtructed, ſave only for the purpoſe of working ſome machine or engine, uſeful to the public, in which caſes the ſame proceedings ſhall be had, as are before directed in the caſe of a water griſt mill, or for the purpoſe of a water griſt mill, before provided for. And where any ſuch are now ſtanding, or ſhall hereafter be erected or fixed, the owner or tenant of the lands adjacent thereto (whether the ſame were erected or fixed by himſelf or another) ſhall cauſe it to be abated. And whoſo offendeth herein, ſhall be deemed guilty of a nuiſance. *d*

County courts may contract for clearing rivers and creeks of certain obſtructions to navigation, &c.

XV. AND whereas many of the rivers and creeks of this commonwealth are ſtopped and choaked by ſtones, trees, ſtumps and rubbiſh therein, and by hedges, weirs, or ſtone ſtops, in or acroſs the ſame, whereby the paſſage of boats and other veſſels, and of fiſh, is obſtructed, to the great damage of the inhabitants of this commonwealth, and the hindrance of trade and commerce; *Be it therefore enacted*, that where any river or creek ſhall be in one county only, the court of ſuch county ſhall be, and is hereby empowered and required, to contract and agree with any perſon or perſons they ſhall think fit to clear the ſame, as far as it ſhall be paſſable for loaded boats, if ſuch obſtructions were removed, and to levy ſo much money in their county levy as ſhall be ſufficient to diſcharge ſuch agreement; and where any river or creek in this commonwealth ſhall divide two or more counties, the courts of every ſuch county ſhall join in ſuch agreement, and levy the charge thereof in proportion to the number of tithables in each county: *Provided always*, that nothing herein contained ſhall be conſtrued to oblige any county court or courts to contract for removing rocks, or ſuch obſtructions, in any river or creek, as cannot be removed without the force of gun-powder: *And provided alſo*, that the courts of the counties adjoining to the rivers *Meherrin*, *Nottoway*, *Roanoke* and *Rappahannock*, above the falls thereof, ſhall not be obliged by this act to contract for the clearing the ſaid rivers or any of them. *e*

Not to extend to obſtructions removable only by the force of gun-powder.

Certain rivers excepted.

(*a*) 1748, *ch.* 20, *ſec.* 10. (*b*) 1785, *ch.* 82, *ſec.* 5. (*c*) 1785, *ch.* 75, *ſec.* 11. (*d*) 1785, *ch.* 82, *ſec.* 6. (*e*) 1743, *ch.* 23, *ſec.* 1, 2. *See act of* 1805, *ch.* 7, *amending this clauſe.*

Penalty for felling trees into rivers or creeks.

XVI. WHOSOEVER shall fell any tree or trees, or cause the same to be felled into any river or creek, or any run whereon there is or shall be erected any public bridge or bridges within this commonwealth, and shall not cut and carry away the same within the space of forty-eight hours after such felling, shall forfeit and pay two dollars and fifty cents for every tree so felled and not cut and carried away, to be recovered before a Justice of the Peace of the county where such offence shall be committed, and shall be to the use of the informer. *a*

Repealing clause.

XVII. ALL and every Act and Acts, clause and clauses of Acts containing any thing within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Commencement of this act.

XVIII. THIS Act shall commence and be in force, from the passing thereof.

CHAP. CVI.

An Act to reduce into one, the several Acts for regulating the Inoculation of the Small Pox within this Commonwealth.

[Passed the 21st of December, 1792.]

Penalty for importing matter to inoculate for the small pox.

I. BE *it enacted by the General Assembly*, That if any person or persons whatsoever, shall wilfully or designedly presume to import or bring into this Commonwealth, from any country or place whatever, the small-pox, or any variolous or infectious matter of the said distemper, with a purpose to inoculate any person or persons whatever, or by any means to propagate the said distemper within this Commonwealth, he or she so offending, shall forfeit and pay the sum of three thousand dollars for every offence so committed; one moiety whereof shall be to the informer, and the other moiety to the overseers of the poor of the County, where the offence shall be committed, for the use of the poor of the said County, to be recovered with costs, by action of debt, bill, plaint, or information, in any court of record within this Commonwealth. *b*

II. BUT for as much as the inoculation for the small-pox may, under peculiar circumstances, be not only a prudent, but necessary means of securing those who are unavoidably exposed to the danger of taking the distemper in the natural way, and for this reason it is judged proper to tolerate it, under reasonable restrictions and regulations. *c*

License to inoculate may be granted by the magistrates of the county or corporation.

III. *BE it therefore enacted*, That if any person shall think him or herself, his, or her family exposed to the immediate danger of catching the said distemper, such person may give notice thereof to the Sheriff of any County, or to the Mayor or Chief Magistrate of any City or Corporation; and the said Sheriff, Mayor, or Chief Magistrate shall immediately, and without loss of time, summon all the acting Magistrates of the said County, City, or Borough, to meet at the most convenient time and place in the said County, City or Borough, and the said Magistrates, or such of them as shall be present, being assembled, shall consider whether, upon the whole circumstances of the case, inoculation may be prudent or necessary, or dangerous to the health and safety of the neighbourhood; and thereupon either grant a license for such inoculation, under such restrictions and regulations as they shall judge necessary and proper, or prohibit the same, as to them, or a majority of them, shall seem expedient; or any person having first obtained in writing (to be attested by two witnesses) the consent of a majority of the house-keepers residing within two miles, and not separated by a river, creek, or marsh, a quarter of a mile wide, and conforming to the following rules and regulations, may inoculate, or be inoculated for the small-pox, either in his, or her own house, or at any other place. *d*

Or by the house keepers residing within a certain distance.

Under certain rules and regulations for confining the infection, and penalties for transgressing them.

IV. NO patient in the small-pox shall remove from the house where he or she shall have the distemper, or shall go abroad into the company of any person who hath not before had the small-pox, or been inoculated, or go into any public road where travellers usually pass, without retiring out of the same, or giving notice upon the approach of any passenger, until such patient hath recovered from the distemper, and hath been so well cleansed in his or her person and

(*a*) 1748, *ch.* 23, *sec.* 3. (*b*) 1769, *ch.* 26. (*c*) *Ib. sec.* 2. (*d*) 1777, *ch.* 2, *sec.* 2.

cloaths, as to be perfectly free from infection, under the penalty of ſeven dollars for every offence, to be recovered, if committed by a married woman, from her huſband; if an infant, from the parent or guardian; and if a ſervant, or ſlave, from the maſter or miſtreſs. *a*

V. EVERY phyſician, doctor, or other perſon undertaking inoculation at any houſe, ſhall cauſe a written advertiſement to be put up at the neareſt public road, or other moſt notorious adjacent place, giving information, that the ſmall-pox is at ſuch houſe, and ſhall continue to keep the ſame ſet up ſo long as the diſtemper or any danger of infection remains there, under the penalty of ſeven dollars for every day that the ſame ſhall be omitted or neglected, to be paid by the phyſician or doctor, if the offence ſhall be committed when he is preſent, or by the maſter, miſtreſs, manager, or principal perſon of the family, reſpectively, if the offence is committed in the abſence of the phyſician or doctor. Every phyſician, doctor, or other perſon undertaking inoculation at any public place, or hoſpital, for the reception of patients, ſhall, before he diſcharges the patients, or ſuffers them to be removed from thence, take due care that their perſons and cloaths are ſufficiently cleanſed, and ſhall give ſuch patients, reſpectively, a certificate under his hand, that in his opinion they are free from all danger of ſpreading the infection, under the penalty of ten dollars for every offence; and every perſon wilfully giving a falſe certificate, ſhall be ſubject to the penalty of thirty dollars. *a*

VI. IF any perſon who hath not had the ſmall-pox, other than thoſe who have been, or intend to be inoculated, ſhall go into any houſe where the ſmall-pox then is, or intermix with the patients and return from thence, any Juſtice of the Peace for the County or Corporation, on due proof thereof, may by warrant cauſe ſuch perſon to be conveyed to the next hoſpital where the ſmall-pox is, there to remain until he or ſhe ſhall have gone through the diſtemper, or until the phyſician or manager of the hoſpital ſhall certify that in his opinion ſuch perſon cannot take the ſame, and if ſuch perſon be not able to pay the neceſſary expenſes, the ſame ſhall be paid by the County. *a*

Expenſes incurred in checking the diſtemper or carrying on inoculation, how to be defrayed.

VII. AND whereas checking the progreſs of the ſaid diſtemper, where it may accidentally break out, or the regulations which may be eſtabliſhed for carrying on inoculation, may be attended with ſome expenſe, it ſhall and may be lawful for the Juſtices of every County, at the time of laying their levy, and for the Mayor, Recorder, Aldermen, and Common-Council of any City or Borough, at ſuch time as they ſhall judge moſt convenient, to levy on the tithable perſons in their ſaid County, City, or Borough, ſo much money as will be ſufficient to defray the expenſes neceſſarily incurred for the purpoſes aforeſaid, in any ſuch County, City, or Borough. *b*

Penalty on the ſheriffs and magiſtrates for neglect of the duties hereby enjoined.

VIII. IF any Sheriff, Mayor, or Chief Magiſtrate, ſhall, upon application to him made, in manner aforeſaid, refuſe, or unreaſonably delay to ſummon the Magiſtrates of any County, City, or Borough, for the purpoſe aforeſaid, or if any Magiſtrate ſo ſummoned, ſhall refuſe or neglect to attend, according to ſuch ſummons, every ſuch Sheriff, Mayor, or Chief Magiſtrate, ſhall forfeit the ſum of three hundred dollars upon his refuſing or neglecting to give ſuch notice without reaſonable excuſe; and every other Magiſtrate ſo refuſing or neglecting, without reaſonable excuſe, ſhall alſo forfeit and pay the ſum of twenty dollars to the perſon aggrieved. *b*

Penalty for inoculating without licenſe, &c.

IX. IF any perſon or perſons ſhall inoculate or procure inoculation for the ſmall-pox, to be performed within this Commonwealth, without obtaining a licenſe or conſent to inoculate in the manner herein before directed, or ſhall not conform to the rules and regulations preſcribed by ſuch juſtices, he, ſhe, or they ſhall forfeit and pay reſpectively, for every ſuch offence, the ſum of three hundred dollars; one moiety whereof ſhall be to the informer, and the other moiety to the overſeers of the poor of the County wherein ſuch offence ſhall be commited, for the uſe of the poor of the ſaid County; to be recovered with coſts, by action of debt, bill, plaint, or information, in any Court of Record within this Commonwealth; and moreover it ſhall and may be lawful for any Juſtice of the Peace, upon information given to him upon oath, to iſſue his warrant againſt any perſon ſo offending, and upon ſufficient proof before him made, to cauſe ſuch offender to give ſecurity in ſuch reaſonable penalty as ſuch Juſtice ſhall think fit, for his or her good behaviour, and upon failure to give ſuch ſecurity, to commit him or her to the Jail of his County or Corporation;

(*a*) *Oct.* 1777, *ch.* 5, *ſec.* 2, 3, 4. (*b*) 1769, *ch.* 26, *ſec.* 5.

Unless some person of the family has caught the infection in the natural way.

there to be confined until such security be given: *Provided nevertheless*, that no person shall incur the penalties imposed by this act for inoculating his family without conforming to the rules herein prescribed, if any person of such family shall have before taken the infection in the natural way; nor shall any patient in the small-pox be compelled to remove from his usual place of residence.

Penalty for propagating the small-pox contrary to this act.

X. EVERY person wilfully endeavoring to spread or propagate the small-pox, without inoculation, or by inoculation, in any other manner than is allowed by this act in special cases, shall be subject to the penalty of fifteen hundred dollars, or suffer six months imprisonment without bail or mainprize. *a*

Penalties, how recoverable and how appropriated.

XI. ALL the penalties inflicted by this act, may be recovered with costs, by action of debt, or information, in any Court of Record, where the sum exceeds twenty dollars, and where it is under, or amounts to that sum only, by petition in the Court of the County where the offence shall be committed; and where they are not hereby appropriated otherwise, shall be one half to the informer, and the other half to the Commonwealth, or the whole to the Commonwealth, where prosecution shall be first instituted on the public behalf alone.

Repealing clause.

XII. ALL acts, and so much of any act of General Assembly, as contains any thing contrary to this act, is hereby repealed.

Commencement of this act.

XIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CVII.

An Act for regulating Ordinaries, and restraint of Tippling Houses.

[Passed the 26th of December, 1792.]

Ordinary licenses how to be obtained.

I. BE *it enacted by the General Assembly*, That every person intending to set up or keep an ordinary, or house of public entertainment, shall first petition the court of that county wherein such ordinary is intended to be, and obtain a license for keeping the same; and the justices of the court to whom such petition shall be exhibited, shall thereupon consider the convenience of the place proposed, and the ability of the petitioner to provide and keep good and sufficient houses, lodging and entertainment for travellers, their servants and horses; but the court shall not, under pretence of keeping any poor person from being chargeable to the parish, license any such person to sell liquors to the prejudice of the neighbouring inhabitants; and if such petition shall appear reasonable, such court is hereby authorised, and may, if they think fit, grant the petitioner a license to keep an ordinary, for the term of one year next ensuing the date of such license, and from thence till the next court held for the said county, and no longer; which license shall be signed by the first justice sworn in the commission of the peace for such county, and may, upon petition be renewed from year to year, if the court shall think fit. *b*

Ordinary keeper to give bond and security.

II. *PROVIDED always*, That before issuing such license, the petitioner shall enter into bond, with sufficient security, to the effect following:

KNOW all men, by these presents, That we A. B. *and* C. D. *are held and firmly bound to , Governor of the Commonwealth of Virginia, in the sum of one hundred and fifty dollars; to which payment, well and truly to be made, to the said , or his successors, we bind ourselves, and every of us, our and every of our heirs, executors and administrators, jointly and severally, by these presents. Witness our hands and seals, this day of in the year one thousand hundred and*

Condition of the bond.

THE condition of the above obligation is such, that whereas the above bound A. B. *hath obtained a license to keep an ordinary at , in the county of , if therefore the said* A. B. *doth constantly find and provide in his said ordinary, good, wholesome and cleanly lodging and diet for travellers, and stablerage, fodder and provender, or pasturage and provender, as the season shall require, for their horses for and during the term of one year from the day of the date of these presents, and from thence till the next court held for the said county of , and shall not suffer or permit any unlawful gaming in his house, nor on the Sabbath day suffer any person to tipple and drink more than is necessary, then this obligation to be void; otherwise to remain in full force. b*

Rates for liquors, diet, &c. to be fixed by the county courts;

III. THE justices of every county court within this commonwealth shall, at their *March* court, or at any other court, set the rates and prices to be paid at all ordinaries within their respective counties, for liquors, diet, lodging, pro-

(*a*) *Oct.* 1777 *ch.* 5, *sec.* 5. (*b*) 22, *Geo.* 2, *ch.* 24, *sec.* 1, 2.

vencer, ſtableage, fodder and paſturage, and may increaſe or leſſen the rates as often as they ſhall ſee cauſe, but ſhall not fail to fix the rates at leaſt twice in a year, under the penalty of fifteen dollars, on every member of ſuch court ſo failing; and every ordinary keeper ſhall within one month after the rates ſo ſet, or from time to time altered, ſet up a copy of the rates aforeſaid, atteſted by the clerk of the court, in ſome public entertaining room in his tavern, to be placed not more than ſix feet above the floor, and ſo long as he neglects this after the month, he ſhall have no right to demand any price for a rated article, and moreover be ſubject to a penalty of ſeven dollars. And if any ordinary keeper ſhall demand and take greater price for any drink, diet, lodging, provender, ſtableage, fodder, or paſturage, than by ſuch rates ſhall be allowed, he or ſhe ſo offending, ſhall forfeit and pay twelve dollars for every ſuch offence to the informer, recoverable with coſts before a juſtice of the peace of the county wherein ſuch ordinary ſhall be. And the penalty on each member of the court failing to fix the rates, and on the tavern keeper for not ſetting up a table of the ſame, ſhall be recoverable by action of debt or information, by any perſon who will ſue for the ſame, in any court of record within this commonwealth. *a*

and tables thereof to be ſet up by the ordinary keepers.

Penalty on them for taking more than the legal rates.

IV. IF any perſon without ſuch licenſe, ſhall open a tavern, or ſell by retail, wine, beer, cyder, rum or brandy, or other ſpirituous liquors, or a mixture thereof, to be drank in, or at the place where it ſhall be ſold, or in any booth, arbor, or ſtall, ſuch offence ſhall be deemed a breach of good behaviour, and he or ſhe ſo offending, ſhall moreover forfeit and pay the ſum of thirty dollars, to be applied towards leſſening the county levy. *b*

Penalty for opening tavern or retailing liquors without licenſe, for the firſt offence.

V. EVERY perſon having been convicted of keeping a tippling houſe, or retailing liquors as aforeſaid, who ſhall afterwards be guilty of the ſame offence, and be thereof again convicted, ſhall by the court before whom ſuch conviction ſhall be had, be committed to priſon, there to remain for and during the term of ſix months, without bail or mainprize. *c*

For the ſecond offence.

VI. THE preſiding juſtice preſent ſhall give this act in ſpecial charge to the grand jury of the county, at every grand jury court; and whenever any proſecution or ſuit ſhall be inſtituted thereupon, the court before whom the ſame ſhall be depending, ſhall proceed to ſpeedy trial thereof, out of courſe, and without delay. *c*

This act to be given in charge to grand juries in county courts.

VII. AND every juſtice of the peace is hereby required and ſtrictly enjoined to cauſe this act to be put in ſtrict execution within his county. And if any juſtice, either from information, his own knowledge, or other juſt cauſe, ſhall ſuſpect any perſon of keeping a tippling houſe, or retailing liquors, as aforeſaid, he is hereby empowered and required, to ſummon ſuch perſon to appear before him, together with ſuch witneſſes as he may judge neceſſary; and upon the perſon's appearing, or failing to appear, if the juſtice, upon examining the witneſſes upon oath, ſhall find ſufficient cauſe, he may, and is hereby required to direct the attorney for the commonwealth in ſuch county, to inſtitute a proſecution againſt ſuch perſon on the public behalf, which ſuch attorney is hereby required to inſtitute accordingly. And ſuch juſtice may alſo cauſe the perſon ſo ſuſpected, to give bond with two ſufficient ſecurities, for his or her good behaviour, for the term of one year, the principal in the ſum of one hundred and fifty dollars and the ſecurities in the ſum of ſeventy-five dollars each; and upon failing to give ſuch bond and ſecurity within three days, after being thereto required, ſuch perſon may be committed to the jail of the county, there to remain until he or ſhe ſhall give bond and ſecurity accordingly; and if ſuch perſon ſhall afterwards during the ſaid term, keep a tippling houſe, or retail liquors, as aforeſaid, the ſame ſhall be, and is hereby declared a breach of the good behaviour, and of the condition of ſuch bond. *c*

And to be put in execution by every juſtice of the peace.

VIII. *PROVIDED always*, That nothing in this act ſhall extend or be conſtrued to prohibit any perſon or perſons from retailing ſuch liquors as ſhall actually have been made from the produce of ſuch perſon's own eſtate, or brewed or diſtilled by him, her, or them, or thoſe in his, her, or their employ; nor to prohibit any merchant or perſon keeping ſtore for the ſale of merchandize, from retailing liquors, ſo as ſuch liquors be not drank, or intended to be drank at the houſe or plantation where the ſame ſhall be ſold. And in caſe any diſpute ſhall ariſe as to the making ſuch liquors, the burthen of proof ſhall be on the defendant. *c*

Proviſo in favor of brewers and diſtillers.

(*a*) 22, *Geo.* 2, *ch.* 24, *ſec.* 3. *Oct.* '79, *ch.* 13, *ſec.* 4. '85, *ch.* 74. (*b*) 22, *Geo.* 2, *ch.* 24, *ſec.* 4. (*c*) *Oct.* '79, *ch.* 13, *ſec.* 4.

Penalties on ordinary keepers suffering gaming in their houses.

IX. IF guests or others play at any game contrary to law in a tavern, or in any out-house, or under any booth, arbor, or other place upon the messuage, or tenement in possession of any tavern keeper, and the keeper thereof shall not endeavor to hinder them, and if they persist, to give information of the offence, and to give in the names of the offenders, within one month thereafter to the court, or to two justices of the peace, his license shall be revoked by the court, and he shall pay to the informer twenty dollars, unless being summoned to shew cause to the contrary, he appear and prove such facts, as induce them to believe, not only he did not know of, but moreover, that he had no reason to suspect such playing. *a*

Or tippling on the sabbath day.

X. IF the keeper of any ordinary or tavern, shall in his house, suffer any person to tipple or drink more than is necessary, on the Lord's day, or on any other day set apart by public authority for religious worship, or shall harbour or entertain any seaman, contrary to law, such tavern keeper shall be deprived of his license in the same manner. *b*

Tavern keepers not to sell liquor on credit to sailors.

XI. IF any keeper of a tavern or ordinary, shall sell drink to any sailor in actual pay on board any ship, on credit, he or she shall not recover any money, tobacco, or other commodity, for liquors so sold upon credit, but every such debt, obligation or specialty, shall be void: and if any warrant, petition, writ, or bill be prosecuted or exhibited against any person for the same, such warrant, petition, writ or bill, shall be dismissed, and the defendant shall have double costs. *b*

Penalty for so doing, or for harbouring sailors.

XII. IF any ordinary keeper shall sell any liquor whatsoever upon credit, to any sailor in actual pay on board any ship or other vessel, or shall harbour, entertain, or sell drink to any such sailor, without license from the master of the vessel or ship, to which the sailor belongs, such ordinary keeper shall for every such offence, forfeit and pay two dollars to the master of the ship or vessel, recoverable with costs, before any justice of the peace of the county, wherein such ordinary keeper lives. *b*

In what cases debts for retailed liquors shall be void.

XIII. NO keeper of a tavern shall recover more than five dollars for liquor sold within the space of a year to one person, residing less than twenty miles from such tavern, and drank, or sold to be drank, in the place where it is kept; and a written contract, or bond, or other specialty for payment, delivery, or security of money or other thing, for performance of any work or service, whereof the whole, or any part, shall have become due for liquors so sold, shall be void. *c*

Corporation courts to have the sole power of granting licenses within their jurisdictions.

XIV. THE several corporation courts within this commonwealth, shall have the sole power of granting or revoking licenses to ordinary keepers, within their respective jurisdictions: *Provided*, That such licenses be granted in the manner above directed by this act.†

Penalties, how recoverable and appropriated.

XV. ALL the penalties and forfeitures by this act given or laid, and not herein before appropriated, shall be, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs, in any court of record within this commonwealth. *d*

Proviso.

XVI. EVERY act of Assembly, concerning any thing within the purview of this act, shall be, and the same is hereby repealed. *Provided always*, That nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this Act.

XVII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CVIII.

An Act reducing into one, the several Acts for unlading Ballast, and Burial of Dead Bodies from on board Ships; and prohibiting the putting Sick or disabled Seamen and Servants on Shore, without providing for their Maintenance.

[Passed the 23d of December, 1792.]

Ballast masters how to be appointed.

I. BE *it enacted by the General Assembly*, That the court of every county or corporation adjacent to any navigable river or creek, shall from time

(a) 1785, *ch.* 74. *(b)* 22, *Geo.* 2, *ch.* 24, *sec.* 2, 7, 8. *(c)* 1785, *ch.* 74. † *By* 22, *Geo.* 2, *ch.* 24, *sec.* 11, *this power was given to the Court of Hustings of Williamsburg only; this year it was extended to all corporate courts.* *(d)* 22, *Geo.* 2, *ch.* 24, *sec.* 9.

to time as vacancies happen, appoint one or more ballaſt maſters, reſiding near the places where veſſels uſually ride in ſuch river or creek, to be overſeers and directors of the delivery and unloading of ballaſt from on board any ſhip or veſſel, within a certain diſtrict to be by them aſcertained. *a*

How qualified.

II. EVERY perſon ſo appointed, ſhall make oath in open court, that he will when required, diligently attend the delivery of ballaſt from on board any veſſel within his diſtrict, and will not knowingly permit the ſame, or any part thereof, to be caſt into the water where navigable, but will direct, and to the beſt of his power, cauſe all ſuch ballaſt to be brought and laid on ſhore at ſome convenient place or places, where it may not obſtruct navigation, nor be waſhed into the channel; and, that he will truly and faithfully execute his office, without favor, partiality, or malice. *b*

Penalty for failing or refuſing to qualify and act.

III. IF any perſon ſo appointed, and having notice thereof by an atteſted copy of ſuch appointment, iſſued by the clerk, and ſerved by the ſheriff or other officer, which notice the clerk is hereby directed immediately to iſſue, and the ſheriff or other officer to ſerve, and thereupon make due return to the next court, ſhall fail to appear before the ſaid court, unleſs hindered by ſickneſs or other legal diſability, or being there, ſhall refuſe to be ſworn, he ſhall be fined ſixty dollars; and the court ſhall upon every ſuch failure or refuſal, or in caſe of death, removal, or other legal diſability of any perſon ſo appointed, proceed to appoint another in his room. *c*

Vacancies, how to be ſupplied.

Their duties.

IV. EVERY ballaſt maſter ſo appointed, upon receiving notice from the maſter or chief officer on board of any ſhip or veſſel within his diſtrict, that ballaſt is to be diſcharged from ſuch veſſel, ſhall go on board the ſame, and attend until the whole ballaſt is delivered, which he ſhall ſee brought on ſhore, and laid at ſome convenient place near the veſſel, where it may not obſtruct navigation, nor be waſhed into the channel, ſhall thereupon give ſuch maſter or officer, a certificate that the ballaſt has been duly unladen from on board ſuch ſhip or veſſel, and ſhall receive from him for the ſervices ſo performed, eighty-three cents *per* day. *d*

Penalty for neglect.

V. EVERY ballaſt maſter failing to do his duty according to this Act, ſhall forfeit ſixty dollars for each default. *d*

Duty of maſters of veſſels intending to unlade ballaſt.

VI. EVERY maſter or chief officer of any ſhip or veſſel having ballaſt to unlade, ſhall give notice in writing, of the time he propoſes to land the ſame, to the ballaſt maſter of the diſtrict; and if he ſhall preſume to land or caſt overboard any ballaſt therefrom, without giving ſuch notice, or contrary to the orders he ſhall receive from the ballaſt maſter of the diſtrict, he ſhall forfeit one hundred and fifty dollars for every ſuch offence or failure. *d*

Dead bodies from on board ſhips how to be buried.

VII. WHEN any perſon ſhall die on board of any ſhip or veſſel within this commonwealth, the maſter thereof ſhall cauſe the dead body to be brought on ſhore, and there buried, at leaſt four feet deep above high-water mark, or be ſubject to the like penalty of one hundred and fifty dollars. *d*

Defendants in ſuits for penalties to be held to bail.

VIII. IF any ſuit be brought for the penalties in this act before contained, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that bail is required. *d*

Penalty on maſters of veſſels putting ſick or diſabled ſailors on ſhore.

IX. IF any maſter or commander of any ſhip or veſſel, ſhall diſcharge, or cauſe to be put on ſhore, any ſick or diſabled ſailor or ſailors, belonging to his ſhip or veſſel, not entitled to his or their diſcharge by the contract between them, or any ſervant, without taking due care for his or their maintenance and cure, he ſhall forfeit and pay ſixty dollars to the overſeers of the poor of the county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall be put on ſhore, to be recovered with coſts, by action of debt or information, in any county or corporation court, and applied towards leſſening the poor rates of the county or corporation; and he ſhall alſo be liable to the action of the overſeers of the poor of that or any other county or corporation wherein ſuch ſailor or ſailors, or ſervant, ſhall become chargeable, for all expenſes of maintenance and cure; and in any ſuch action or actions, the defendant may be ruled to give ſpecial bail, and the clerk ſhall endorſe on the writ, that good bail is required: *Provided*, That the ſaid overſeers of the poor, or either of them, ſhall make affidavit of the cauſe of action, before a magiſtrate, which ſhall be certified to the clerk of the court who ſhall iſſue the writ. *e*

Defendants to be held to bail.

(*a*) 1785, *ch.* 96, *ſec.* 1. (*b*) *May* 1783, *ch.* 21, *ſec.* 7. (*c*) 1748, *ch.* 29, *ſec.* 13. (*d*) 1785, *ch.* 76, *ſec.* 2, 3, 4, 5. (*e*) 1748, *ch.* 12, *ſec.* 7. 1785, *ch.* 59. 1772, *ch.* 40.

Repealing clause. Proviso.

X. ALL and every Act, clause and clauses of Acts, within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this Act.

XI. THIS Act shall commence and be in force, from and after the passing thereof.

CHAP. CIX.

An Act to prevent the malicious burning any House; for taking away Clergy from certain Offences; and for punishing Accessaries to Felonies, and Receivers of stolen Goods.

[Passed the 26th of December, 1792.]

Felony without benefit of clergy to burn any house.

I. BE *it enacted by the General Assembly*, That all and every person and persons, that shall at any time, either in the night or the day, maliciously, unlawfully and willingly, burn any house or houses whatsoever, or shall comfort, aid, abet, assist, counsel, hire, or command, any person or persons to commit any of the said offences, being thereof convicted or attainted, or being indicted thereof, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall be adjudged a felon, and shall suffer death as in case of felony, and shall not have the benefit of his, her, or their clergy. *a*

Benefit of clergy not to be allowed to those who feloniously break any store or warehouse and take therefrom money, or goods of the value of four dollars.

II. ALL and every person and persons, that shall at any time, either in the night or the day, feloniously break any warehouse or storehouse, and shall take therefrom any money, goods or chattels, wares or merchandizes, of the value of four dollars or more, although the owner of such goods, or any other person or persons, be, or be not in such warehouse or storehouse, or shall aid, assist, counsel, hire, or command any person or persons so to break and rob any such warehouse or storehouse, and shall be thereof convicted or attainted, or being thereof indicted, shall stand mute, or will not answer directly to the indictment, or shall peremptorily challenge above the number of twenty persons returned to be of the jury, shall, by virtue of this act, be absolutely debarred of, and from the benefit of clergy. *a*

When accessaries in felonies shall be prosecuted in the same manner as if the principals had been attainted.

III. IF any principal offender shall be convicted of any felony, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, it shall and may be lawful to proceed against any accessary, either before or after the fact, in the same manner as if such principal felon had been attainted thereof, notwithstanding such principal felon shall be admitted to the benefit of his clergy, pardoned, or otherwise delivered, before attainder; and every such accessary shall suffer the same punishment, if he or she be convicted, or shall stand mute, or peremptorily challenge above the number of twenty persons returned to be of the jury, as he or she should have suffered if the principal had been attainted. *a*

Receivers of stolen goods may be punished as for misdemeanors altho' the principals be not convicted.

IV. IT shall and may be lawful to prosecute and punish every such person and persons buying or receiving any stolen goods, knowing the same to be stolen, as for a misdemeanor, to be punished by fine and imprisonment, although the principal felon be not before convicted of the said felony, which shall exempt the offender from being punished as accessary, if the principal shall be afterwards convicted. *a*

Repealing clause. Proviso.

V. ALL and every Act and Acts, clause and clauses of Acts, containing any thing within the purview of this Act, (except as herein after provided) shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Commencement of this Act.

VI. THIS Act shall commence and be in force, from and after the passing thereof.

(*a*) 1730, *ch.* 8, *sec.* 2, 4, 6, 8.

CHAP. CX.

An Act declaring who shall be deemed Citizens of this Commonwealth, and pointing out the Mode by which the Right of Citizenship may be acquired or relinquished.†

[Passed the 23d of December, 1792.]

Who shall be deemed citizens.

I. BE *it enacted by the General Assembly*, That all free persons born within the territory of this commonwealth, all persons not being natives, who have obtained a right to citizenship under former laws, and also all children wheresoever born, whose fathers or mothers are or were citizens at the time of the birth of such children, shall be deemed citizens of this commonwealth, until they relinquish that character in manner hereinafter mentioned. *a*

How emigrants, other than alien enemies may become citizens.

II. AND that all persons, other than alien enemies, who shall migrate into this state, and shall before some court of record give satisfactory proof by oath, or being Quakers or Menonists, by affirmation, that they intend to reside therein, and also take the legal oath or affirmation for giving assurance of fidelity to the commonwealth, (which oaths or affirmations the clerk of the court shall enter of record, and give a certificate thereof to the person taking the same, and shall on or before the first day of *October* annually, transmit to the Executive a list of the persons who shall have taken the said oaths or affirmations, reciting their nation and occupation, (if any) to be by them entered in a book to be kept for that purpose, for which he shall receive the fee of one dollar,) shall be entitled to all the rights, privileges, and advantages of citizens, except that they shall not be capable of election or appointment to any office, legislative, executive, or judiciary, until an actual residence in the state for five years after the time of taking such oaths or affirmations, aforesaid; nor until they shall have evinced a permanent attachment to the state, by having intermarried with a citizen of this commonwealth, or a citizen of any other of the United States, or purchased lands of the value of three hundred dollars therein.

Exception as to holding offices.

III. *PROVIDED always*, That no person having or holding any place or pension from any foreign state or potentate, shall be eligible to any office, legislative, executive, or judiciary, within this commonwealth.

Artizans, mechanics, &c. migrating to this state, exempted from taxes for a certain time.

IV. AND for the encouragement of useful artizans, mechanics, and handicraft tradesmen, to migrate into this commonwealth, *Be it further enacted*, that all and every such person or persons last mentioned, who shall hereafter migrate to this commonwealth, shall be wholly exempt from the payment of any tax on his or their tools, or implements of trade, which he or they shall bring into this commonwealth, at the time of his or their migration thereto; and shall moreover be exempted from all taxes whatsoever except the land tax, for the space of five years next thereafter, and if he or they shall so long continue the actual exercise of his or their trade or occupation therein.

How a citizen may expatriate himself.

V. WHENSOEVER any citizen of this commonwealth, shall, by deed in writing, under his hand and seal, executed in the presence of, and subscribed by three witnesses, and by them, or two of them proved in the General court, any district court, or the court of the county or corporation where he resides, or by open verbal declaration made in either of the said courts, to be by them entered of record, declare that he relinquishes the character of a citizen, and shall depart out of this commonwealth, such person shall, from the time of his departure, be considered as having exercised his right of expatriation, and shall thenceforth be deemed no citizen.

Certain descriptions of persons prohibited from migrating to, or becoming citizens of this commonwealth.

VI. ALL persons who, having accepted a military commission from the United States, or any of them, or who, having taken the oath of fidelity to any of the United States, or who having been natives of, or residents in any of the United States, on the nineteenth day of *April*, in the year one thousand seven hundred and seventy-five, or at any time since, have at any time during the late war, voluntarily joined themselves to the fleets or armies of the King of *Great-Britain*, or have voluntarily borne arms against the United States, or any of them, in any garrison, port or fortification, or other place whatsoever, within their territories, or on their coasts; or have been owner, or part owner of any privateer, or other armed vessel cruising against the said United States, or any of them; and all and every person and persons, who at any time acted as a member of the board, commonly called the board of refugee commissioners,

† *See acts of third Congress (begun Nov. 1794) ch. 85, pa. 69, which takes from county courts the power of admitting aliens to citizenship.* (a) 1786, *ch.* 10.

at New-York, or under the authority, or by the direction of the ſaid board, ſhall be, and they are hereby prohibited from migrating to, or becoming citizens of this commonwealth; and all ſuch perſons ſhall be equally ſubject to the pains, penalties and diſabilities of this act, although they have been heretofore, or ſhall be hereafter admitted to take the oaths of fidelity to this commonwealth, in any court of record within the ſame, as if they had not taken the ſaid oaths.

How they may be puniſhed for contravening this act.

VII. ALL and every perſon and perſons prohibited by this act, from migrating to this commonwealth, who ſhall be found within the ſame, ſhall and may be proſecuted in the General court of this commonwealth, as for a miſdemeanor; and if upon trial, ſuch perſon or perſons be found guilty of a breach of this act, he or they ſhall be impriſoned, for a term not exceeding ſix months, in the public jail of this commonwealth, without bail or mainprize, and may be fined at the diſcretion of the ſaid court, in any ſum not exceeding three hundred dollars, and ſhall moreover ſtand committed until ſuch fine be paid; and if the perſon or perſons ſo convicted, ſhall be found at large in this commonwealth, after the expiration of one year, from the time of his or their conviction, or of one month from the time of his or their enlargement from jail, ſuch perſon or perſons ſhall be committed to the public jail; and upon proof being made of the identity of ſuch perſon or perſons, he or they ſhall be thereafter impriſoned in the public jail for the ſpace of five years, without bail or mainprize, and ſhall moreover forfeit all his goods and chattels, lands and tenements, for the uſe of the commonwealth; and if any perſon prohibited by this act from migrating to this commonwealth, ſhall inſtitute any ſuit or action whatſoever, in any of the courts of this commonwealth, againſt any citizen or other perſon entitled to become a citizen thereof, the defendant or defendants may plead this act in bar of ſuch action or ſuit; and if upon the trial of the cauſe, it ſhall appear that the plaintiff is by this act prohibited from migrating to this commonwealth, and that the cauſe of action aroſe within the ſame, after the commencement of this act, the jury ſhall find for the defendant or defendants, and thereupon judgment ſhall be given againſt the plaintiff, with treble coſts of ſuit; and the clerk of the court in which ſuch cauſe ſhall be tried, ſhall, within one month thereafter, tranſmit a copy of the record, together with the names of the witneſſes ſworn on the part of the defendant or defendants, to the Attorney General; who ſhall, at the next ſucceeding ſeſſion of the General court, file an information, or prefer an indictment to the grand jury, againſt the perſon or perſons againſt whom ſuch verdict and judgment ſhall have been given.

In ſuits brought by them againſt citizens, judgment ſhall be rendered for the defendants with treble coſts.

All other former reſidents allowed to return.

VIII. ALL perſons reſident in this, or any other of the United States, on the aforementioned nineteenth day of *April*, and not included in the above deſcription, who are at preſent prohibited by law from migrating to this ſtate, ſhall be, and they are hereby permitted to migrate into, and enjoy all the rights of citizenſhip, except that they ſhall not be capable of voting for members to either Houſe of Aſſembly, or of holding or accepting any office of truſt or profit, civil or military.

But not to vote at elections or hold offices.

Nothing herein to contravene the treaty with Great-Britain.

IX. *PROVIDED*, That nothing herein contained, ſhall be conſtrued ſo as to contravene the treaty of peace with *Great-Britain*.

Repealing clauſe.

X. ALL and every Act and Acts, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

XI. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXI.

An Act concerning Coin, and for other Purpoſes.†

[Paſſed the 19th of December, 1792.]

What gold and ſilver coins ſhall be current.

I. BE *it enacted by the General Aſſembly*, That from and after the firſt day of *January*, in the year of our Lord one thouſand ſeven hundred and ninety-three, the gold and ſilver coin herein after mentioned, ſhall be current in this commonwealth, and ſhall be a legal tender in payment of all debts and contracts between individuals, and in payment of all public dues and taxes, at the rates following, until it ſhall be otherwiſe regulated and directed by the Congreſs of the United States; that is to ſay: The gold coin of *France*, *Spain*,

† *Amended, poſt, ch.* 157.

Portugal, and *England*, at the rate of five shillings and four-pence the penny-weight, or of a dollar for twenty-seven grains; the gold coin of *Germany* at the rate of four shillings and ten-pence the penny-weight, or a dollar for twenty-nine grains and eight tenths of a grain; *Spaniſh* milled dollars at the rate of ſix shillings, or one hundred cents; and other ſilver coin uncut, in like proportion. Cut ſilver coin ſhall be receivable at the treaſury of this commonwealth for all public dues and taxes, at the rate of ſix ſhillings and eight-pence, or one dollar and eleven cents the ounce. until regulated by congreſs. Rates.

II. *AND be it further enacted*, That the money of account of the commonwealth, ſhall be expreſſed in dollars or units, diſmes or tenths, cents or hundredths, and mills or thouſandths; a diſme being the tenth part of a dollar, a cent the hundredth part of a dollar, and a mille the thouſandth part of a dollar; and that all accounts in the public offices, ſhall be kept and had in conformity to this regulation. The public accounts to be kept in dollars and parts of dollars.

III. THE treaſurer of the commonwealth is authoriſed and directed to receive from the commiſſioner of the loan-office of the United States in this ſtate, the intereſt which hath or ſhall become due on the deficiency of the ſum allowed to be ſubſcribed of the debt of this commonwealth, agreeably to an act of Congreſs, intituled, "*An act making proviſion for the Debt of the United States.*" The treaſurer to receive the intereſt on the deficiency of the loan of the ſtate debt.

VI. ALL and every Act and Acts, clauſe and clauſes of Acts, coming within the purview of this Act, ſhall be, and the ſame are hereby repealed. Repealing clauſe.

V. THIS act ſhall commence in force, from and after the firſt day of *January*, in the year of our Lord one thouſand ſeven hundred and ninety three. Commencement of this act.

CHAP. CXII.

An Act againſt Divulgers of Falſe News.

[Paſſed the 27th of December, 1792.]

I. WHEREAS many idle and buſy-headed people, do forge and divulge falſe rumours and reports: Preamble.

II. *BE it therefore enacted by the General Aſſembly*, That what perſon or perſons ſoever, ſhall forge or divulge any ſuch falſe reports, tending to the trouble of the country, he ſhall be by the next juſtice of the peace ſent for, and bound over to the next county court; where if he produce not his author, he ſhall be fined forty dollars, (or leſs if the court think fit to leſſen it) and beſides give bond for his good behaviour, if it appear to the court that he did maliciouſly publiſh or invent it. *a* Divulgers of falſe news to be fined and bound to good behaviour.

III. ALL and every act and acts, clauſe and clauſes of acts, coming within the parview of this act, ſhall be, and the ſame are hereby repealed. Repealing clauſe.

IV. THIS Act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CXIII.

An Act to prevent unlawful Hunting.

[Paſſed the 23d of December, 1792.]

I. WHOSOEVER ſhall hereafter uſe any fire hunting, or the killing of any deer by ſuch means, on any patented lands, every perſon preſent at ſuch fire hunting, ſhall forfeit and pay four dollars for every ſuch offence; which penalties ſhall and may be recovered before any juſtice of the peace in the county where any of the offences aforeſaid ſhall be committed, and ſhall be divided, one half to the uſe of the overſeers of the poor of the diſtrict wherein the offence was committed, and the other half to the perſon or perſons who will inform for the ſame. And every juſtice of the peace before whom information ſhall be made of any of the offences aforeſaid, ſhall take for evidence the confeſſion of the party accuſed, or the oath of one credible witneſs; and where the owner of any lands ſhall proſecute for any unlawful hunting and trespaſs on his lands, the oath of ſuch owner ſhall be ſufficient evidence to convict the offender; but in that caſe the whole penalty ſhall go to the overſeers of the poor. *b* Penalty for fire hunting. What evidence of the offender's guilt ſhall be ſufficient.

II. IF any perſon ſhall ſhoot, or otherwiſe kill any tame deer, having a bell and collar on its neck, every perſon ſo offending, ſhall be liable to an action of Penalty for killing tame deer.

(*a*) 1661, *ch.* 11, *ſect.* 1, 2. (*b*) 1738, *ch.* 1, *ſect.* 8, 9.

trespass to the person whose property the same shall be, to be prosecuted in the court of the county where the offence shall be committed. *a*

Repealing clause.

III. ALL and every Act and Acts, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this Act contained, shall be construed to repeal any Act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this Act.

Proviso.

Commencement of this Act.

IV. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CXIV.

An Act concerning the right of Entry, and giving Remedy against collusive Judgments of Lands, and wrongful Alienations thereof in certain Cases.

[Passed the 19th of December, 1792.]

Preamble.

I. WHERE a husband doth lose the lands of his wife by default, it is unreasonable that the wife after the death of her husband, should have no other recovery but by writ of right:

A widow not barred of right of entry into her land lost by her husband's default.

II. *BE it therefore enacted by the General Assembly*, That a woman, after the death of her husband, shall not be injured by such default, but shall notwithstanding, retain her right of entry, and may prosecute the same, by any real or mixed action, that may best suit the case. If the tenant shall object to the wife's claim, that he entered by judgment, and it be found that his entry was by default, to which he shall answer, if required, he shall then further answer and shew his right in like manner as in the writ he first purchased against the husband and wife; and if he can shew such right, the wife shall gain nothing by her writ; but if the husband absent himself and will not defend his wife's right, or against the wife's consent, will render the wife's lands in any suit instituted against the husband and wife for lands which are her inheritance during the coverture, then the wife may come at any time before judgment, and defend her right. *b*

When the wife may defend a suit brought for her lands.

When the reversioner may defend a suit brought against the tenant for life.

III. IF tenant in dower, tenant by the curtesy, or otherwise for term of life, or by gift, where the reversion is reserved, do make default, or will give up, the heirs or they unto whom the reversion belongeth, shall be admitted to their answer if they come before judgment; and if upon such default or surrender, judgment happen to be given, then the heir or they unto whom the reversion belongeth, after the death of such tenants, shall in no wise be injured by such default or surrender. *b*

When the dying seized of a disseisor shall not take away the right of entry.

IV. THE dying seized hereafter of any disseisor, having no right or title, shall not be such descent in law as to take away the right of entry from such, as at the time of the death of the disseisor, had lawful title of entry, except such disseisor hath had peaceable possession five years next after the disseisin committed without entry, or continual claim of such as have lawful title. *c*

Husband's conveyance of his wife's lands not to prejudice her or her heirs.

V. NO feoffment, or other conveyance, or other act or acts hereafter to be made, suffered, or done by the husband only, of any lands, tenements, or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall in any wise be, or make any discontinuance thereof, or be prejudicial or hurtful to the said wife or her heirs, or to such as shall have right, title, or interest to the same, by the death of such wife; but the said wife or her heirs, and such other to whom such right shall appertain after her decease, shall and may then lawfully enter into all such lands, tenements, and hereditaments, according to their rights and titles therein; any such feoffment, or other conveyance, or act, to the contrary notwithstanding. *c*

Repealing clause.

Proviso.

VI. ALL and every Statute and Act, or clause and clauses of any Statute or Act, coming within the purview of this Act, shall be, and the same are hereby repealed. *Provided nevertheless*, That nothing herein contained, shall be construed to affect any right which may have accrued, or been vested before the commencement of this Act.

Commencement of this act.

VII. THIS Act shall commence in force, from and after the passing thereof.

(a) 1772, *ch.* 39, *sec.* 5. *(b)* 13 *Edw.* 1*st*, *ch.* 3. *(c)* 32 *H.* 8, *ch.* 33. *Ibid. ch.* 28, *sec.* 6.

CHAP. CXV.

An Act reducing into one the ſeveral Acts concerning the Fees of certain Officers, and declaring the Mode of diſcharging the ſaid Fees and County Levies.†

[Paſſed the 19th of December, 1792.]

I. BE *it declared and enacted, by the General Aſſembly*, That it ſhall and may be lawful for the clerk of the council, the clerk of the houſe of delegates, the regiſter, the clerks of the general court, high court of chancery, court of appeals, diſtrict courts, clerks of corporation courts, and all county court clerks, ſheriffs, coroners, conſtables, and ſurveyors, reſpectively, to demand, receive and take the ſeveral fees herein after mentioned and allowed, for any buſineſs by them reſpectively done, by virtue of their ſeveral offices, and no other fees whatſoever: That is to ſay— *a* Fees to be received by

To the Clerk of the Council, The clerk of the council.

	Dolls.	Cts.
For every teſtimonial,	1	67

To the Clerk of the Houſe of Delegates, The clerk of the houſe of delegates.

For a copy of an act of Aſſembly, if contained in one ſheet,	1	0
And for every ſheet after the firſt,	0	75

To the Regiſter, b The regiſter of the land-office.

For iſſuing a warrant of ſurvey, and recording the ſame,	0	63
For every warrant iſſued in exchange for another warrant, or where lands claimed under a former warrant, ſhall be recovered on a *caveat*, and recording the ſame,	0	63
For receiving a plat and certificate, and giving a receipt for the ſame,	0	10
For iſſuing and recording a grant thereupon, if the quantity therein contained exceed not four hundred acres,	1	26
For every hundred acres, exceeding that of four hundred,	0	10
For recording a plat and certificate of ſurvey, if the quantity does not exceed four hundred acres,	0	42
For every hundred acres exceeding that quantity,	0	10
For entering a *caveat*, or for a copy thereof,	0	42
For a copy of any grant or patent of land,	0	63
For a ſearch for any thing, or for reading the ſame, if a copy be not required,	0	21
For keeping a regular account of warrants, examined and cancelled, to be paid by the treaſurer, on the auditor's warrant, for each warrant,	0	6

To the Surveyor, c Surveyors.

For every ſurvey by him plainly bounded as the law directs, and for a plat of ſuch ſurvey, after the delivery of ſuch plat, where the ſurvey ſhall not exceed four hundred acres of land,	5	25
For every hundred acres contained in one ſurvey above four hundred,	0	25
For ſurveying a lot in town,	1	0
And where a ſurveyor ſhall be ſtopped or hindered from finiſhing a ſurvey by him begun, to be paid by the party who required the ſame to be ſurveyed,	3	62
For running a dividing line,	2	10
For ſurveying an acre of land for a mill,	1	5
For every ſurvey of land formerly patented, and which ſhall be required to be ſurveyed, and for a plat thereof delivered as aforeſaid, the ſame fee as for land not before ſurveyed,		
And where a ſurvey ſhall be made of any lands which are to be added to other lands, in an incluſive patent, the ſurveyor ſhall not be paid a ſecond fee for the land firſt ſurveyed, but ſhall only receive what the ſurvey of the additional land ſhall amount to,		
And where any ſurveys have been actually made of ſeveral parcels of land adjoining, and ſeveral plats delivered, if the party ſhall deſire one incluſive plat thereof, the ſurveyor ſhall make out ſuch plat for	1	5
For running a dividing line between any county or pariſh, to be paid by ſuch reſpective counties or pariſhes, in proportion to the number of tithables, if ten miles or under,	10	50
And for every mile above ten,	0	30

† *See acts of '96, ch. 5.* (*a*) 1745, *as altered by ſubſequent regulations* (*b*) *May '83, ch. 7, ſec. 1.* (*c*) *Oct. '83, ch. 32, ſec. 3.*

	Dolls.	Cts.
For receiving a warrant of ſurvey, and giving a receipt therefor,	0	17
For recording a certificate from the commiſſioners of any diſtrict of a claim to land allowed by them, to be paid by the claimant,	0	17
For making an entry for land, or for a copy thereof,	0	17
For a copy of a plat of land, or of a certificate of ſurvey,	0	25

Aſſignees of ſurveys anſwerable for ſurveyor's fees where the aſſignor has not paid them.

II. *PROVIDED always*, That where any perſon ſhall employ a ſurveyor, and ſhall have received a plat of land ſurveyed, and afterwards ſhall aſſign the plat of land to any other, either before or after obtaining a patent for the ſame, if ſuch perſon for whom the land was firſt ſurveyed, ſhall not have paid for the ſaid ſurvey, it ſhall and may be lawful for the ſheriff or other officer of the county or corporation, where ſuch aſſignee ſhall reſide, at the inſtance of ſuch ſurveyor, to make diſtreſs upon the ſlaves, goods and chattels of ſuch aſſignee, in like manner as is herein after provided for ſurveyors or other officers' fees refuſed or delayed to be paid. *a*

To the Clerk of the Court of Appeals,

Fees to be received by the clerk of the court of appeals.

	Dols.	Cts.
The ſame fees with thoſe of the high court of chancery and general court, for ſimilar ſervices.		

To the Clerk of the High Court of Chancery,

The clerk of the high court of chancery.

For filing a bill, anſwer, replication, or other pleadings, each,	0	26
For a copy thereof, for every twenty words,	0	2
For entering every decree,	0	18
For drawing up every decree at large, entering the ſubſtance of the bill, anſwer and other pleadings, the ſubſtance of the evidence and the decree thereupon, for every twenty words,	0	2
For filing the depoſitions in every cauſe in behalf of each party,	0	26
For a copy of the depoſitions, for every twenty words,	0	2

To the Clerk of the General Court,

The clerk of the general court.

For a copy of a warrant and inquiſition of eſcheat,	1	92
Or of an inquiſition of eſcheat,	0	83
For the probation of any teſtament and recording the ſame, for entering the orders for appraiſing the eſtate, recording the inventory, writing and ſealing the probat, or any other matter concerning the ſame, or for a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſing the eſtate, recording the inventory, or for any other matter concerning the ſame where the appraiſement doth not amount to above three hundred dollars,	3	50
Or where the appraiſement exceeds three hundred dollars, and is under fifteen hundred dollars,	5	0
Or where the appraiſement exceeds fifteen hundred dollars, or there is no appraiſement,	7	0
For a copy of a probat, or commiſſion of adminiſtration, *b*	0	70
For recording the memorial of each bargain, ſale, mortgage, or other conveyance, marriage ſettlement, or deed of truſt, there ſhall be paid by the perſon to whom the ſame ſhall be made,	0	18
For recording the certificate of a probat, or adminiſtration, *c*	0	18
For a copy of a will, or inventory,	0	70
And if the original is contained in more ſheets than one, for a copy of every ſuch ſheet,	0	52
For a copy of an account,	0	35
For recording of a deed or deeds for the conveying or ſettling any lands or tenements only, or together with ſlaves or perſonal eſtate, or any way concerning the ſame, acknowledged or proved in the general court,	2	62
For a copy of ſuch deed or deeds, with the endorſements thereon, and for a certificate of the acknowledgment or proof, and recording,	1	57
For iſſuing a commiſſion to take the acknowledgment and privy examination of a *feme covert*, and recording it with the return of the commiſſioners,	0	87
For a copy thereof,	0	52
For recording a deed concerning ſlaves, or any perſonal matter only,	1	22
For a copy thereof with a certificate of the acknowledgment or proof, and recording,	0	70

(*a*) 1745, *ch* 1, *ſec.* 8. (*b*) 1784, *ch.* 60. (*c*) 1745, *ch.* 1.

	Dols.	Cts.
Provided however, that for a deed of gift for slaves only, or for a copy thereof, there shall be allowed only *a*	0	35
For recording a letter of attorney, acknowledged and proved in the general court, and every thing relating thereto, *b*	1	22
For a copy thereof,	0	70
For recording a bond with condition other than for performance of covenants in deeds of conveyance or settlement of lands,	0	70
For a copy of a bond with condition,	0	35
In Actions and other Suits,		
For every writ of error, *supersedeas*, or *scire facias*,	0	43
For taking bond on issuing a writ of error or *supersedeas*,	0	43
For every other writ in any action or suit whatsoever,	0	35
For entering the sheriff's return, and entering the bail by him returned in the rule-book,	0	35
For entering special bail,	0	35
For entering the personal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering security for costs for persons out of the country,	0	35
For filing a declaration, and every plea or demurrer in any cause to the making up of the issue, and for filing errors upon appeals, writs of error, or *supersedeas*,	0	35
For a copy of every declaration, plea or demurrer, or of errors,	0	35
For every rule entered in the rule-book,	0	35
For a copy of every rule,	0	18
For every order in court before trial,	0	18
For a copy of the same,	0	18
For filing papers for each party in any action or suit,	0	26
For docketing every cause on the docket (to be charged but once)	0	18
For every trial, swearing the jury and witnesses, and recording a general verdict,	0	87
For administering an oath or affirmation in court, except witnesses to a jury,	0	18
For every trial where there is a special verdict, swearing the witnesses and jury, and recording such verdict,	1	30
And where there is no jury, but a case agreed,	0	43
For swearing witnesses for each party in every cause where there is no jury,	0	26
For a copy of a case agreed, or notes of a special verdict,	0	43
For entering every order made in court, after verdict, or demurrer joined,	0	18
For entering every continuance on the court docket,	0	18
For entering every judgment,	0	18
For making a complete record of every cause, inserting a case agreed or special verdict at large from the notes, and all deeds and other evidences at large, for every twenty words,	0	2
For a copy thereof or any part thereof, the same.		
For a recognizance in court,	0	35
For filing a return of a *habeas corpus*,	0	26
For filing the record on a writ of error,	0	26
For a copy of such record for every twenty words,	0	2
To the Clerk of the General Court or High Court of Chancery, [as the case may be.]		
For taking a bond upon issuing injunctions,	0	43
For every *dedimus potestatem*,	0	35
For recording the report of auditors, when it is desired,	0	70
For making a complete record of every cause, for every twenty words,	0	2
For filing the return of a *certiorari*,	0	26
For taxing the costs in any action or suit, and a copy thereof,	0	35
For recording any thing not herein particularly mentioned, or for a copy thereof, for every twenty words,	0	2
For a search for any thing, if above a year's standing, or reading the same, or any part thereof, if required, if a copy be not taken,	0	18

The clerk of the general court, or the high court of chancery.

(*a*) 1758, *ch.* 1, *sec.* 6. (*b*) 1745, *ch.* 1.

	Dols.	Cts.
For every order to a witneſs for attendance, (to be charged to the party againſt whom the order goes)	0	18
To the Clerks of the Diſtrict Courts,		
The clerks of the diſtrict courts. For iſſuing a ſummons on a petition for lapſed-lands,	0	87
For every order thereon,	0	26
In all other caſes, the ſame fees with thoſe of the county courts, for ſimilar ſervices; and for all other ſervices the ſame as thoſe of the clerk of the General Court. *a*		
To the Clerk of a Diſtrict Court, or the Clerk of the High Court of Chancery, [as the caſe may be.]		
The clerks of the diſtrict courts, or the clerk of the high court of chancery. For filing the record upon an appeal, or *ſupersedeas* from a county court, or any inferior court,	0	26
For a copy of ſuch record, for every twenty words, *b*	0	2
To the Clerks of the County and Corporation Courts.		
The clerks of the county and corporation courts. For every writ in the nature of an *ad quod damnum*, (to be paid upon iſſuing ſuch writ)	0	83
For recording the ſame with the inquiſition thereupon, (to be paid before inquiſition recorded)	1	92
For a copy of ſuch writ and inquiſition (to be paid down)	0	83
For taking a bond upon iſſuing injunctions in Chancery,	0	35
For recording deeds of leaſe and releaſe, for conveying or ſettling of lands only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto, *c*	2	62
For a copy thereof,	0	95
For recording every deed of feoffment, or bargain and ſale, or other ſingle deed for conveying or ſettling lands and tenements only, or together with ſlaves and perſonal eſtate, bond to perform covenants, certificate of the proof or acknowledgment, as the caſe is, and all matters relating thereto,	1	75
For a copy thereof,	0	70
For iſſuing and recording a commiſſion to take the acknowledgment and privy examination of a *feme covert*, with the certificate of the commiſſioners, if ſuch commiſſion be required,	0	70
For a copy thereof,	0	35
For recording a patent,	0	87
For a copy thereof,	0	43
For recording a deed concerning ſlaves, or any perſonal matter or thing only, with certificate of its proof or acknowledgment,	0	70
For a copy thereof,	0	52
Provided however, That for a deed of gift for ſlaves only, or for a copy thereof, there ſhall be allowed only, *d*	0	35
For recording a letter of attorney, *e*	0	52
For a certificate of the proof or acknowledgment thereof,	0	18
For a copy of a letter of attorney with ſuch certificate,	0	43
For recording a bond with condition, other than for performance of covenants in deeds of conveyance, or ſettlement of lands,	0	35
For a copy of a bond, with condition, other than an appeal bond, the ſame.		
For a copy of any other obligation or promiſſory note,	0	18
For the probation of any will or teſtament, and recording the ſame, entering the order or orders for appraiſing the eſtate, and for any other matter concerning the ſame, where the will ſhall be contained in one ſheet,	0	70
And if the will is contained in more than one ſheet, for every ſuch ſheet,	0	35
For a commiſſion of adminiſtration of the goods of any perſon dying inteſtate, for entering the order or orders for appraiſement, and for any other matters concerning the ſame,	0	70
For recording an inventory, where the appraiſement doth not amount to more than thirty dollars,	0	18

(*a*) 1788, *ch.* 67, *ſec.* 21. (*b*) *From* '45, *ch.* 1. (*c*) *See acts of* 1796, *ch.* 2. (*d*) 1753, *ch.* 1, *ſec.* 2. (*e*) 1745, *ch.* 1, *ſec.* 2.

	Dols.	Cts.
Where the appraiſement exceeds that value, and is under one hundred and fifty dollars,	0	87
And where it ſhall exceed one hundred and fifty dollars, and is under three hundred dollars,	1	75
And where it ſhall exceed three hundred dollars, or there is no appraiſement,	4	37
For a copy of a will or inventory, if the original is contained in one ſheet,	0	57
If the original is contained in more ſheets than one, for a copy of every ſuch ſheet beſides the firſt,	0	35
For recording the age of a ſervant or ſlave, adjudged in court,	0	18
For a certificate thereof if required,	0	14
For attending a court for examination of criminals and trial of ſlaves, if the court is held for that purpoſe (to be paid by the public) *a*	3	50
For a copy of a liſt of tithables, in his precinct, *b*	0	35
For the whole fee for an ordinary licenſe and bond,	0	87
For a copy of the rates of liquors,	0	26
For a marriage licenſe, certificate, and bond,	0	87
For every ſearch for any thing above a year's ſtanding if a copy be not taken,	0	8
For reading any thing if a copy be not required,	0	8
In Actions and other Suits.		
For every writ, other than ſuch as are herein particularly mentioned,	0	18
For a copy of ſuch writ,	0	8
For every writ of execution, or *ſcire facias*,	0	26
For a copy thereof,	0	14
For recording the return thereof,	0	14
For a writ of attachment, in any action,	0	26
For recording the return thereof,	0	26
For an attachment granted by a juſtice of the peace, returnable to the court, and recording the return and putting the ſame on the docket,	0	35
For every ſummons to ſummon a garniſhee on ſuch attachment,	0	18
For filing every bail bond, or entering the bail returned,	0	18
For docketing every cauſe, except by petition (to be charged but once)	0	8
For a copy of the return of any writ,	0	5
For entering ſpecial bail,	0	18
For entering ſecurity for coſts for perſons out of the country,	0	18
For entering the appearance of the defendant or defendants, where there is no attorney, in any ſuit, except by petition,	0	8
For entering one or more attornies for each party,	0	8
For every petition, declaration, or other pleadings, except in ſuits by petition for debt, *detinue*, *aſſumpſit*, or *trover*,	0	18
For a copy of any declaration, ſpecial plea, or demurrer,	0	18
For a copy of a plea, if the general iſſue,	0	5
For every trial, ſwearing the jury and witneſſes, filing all papers, and recording a general verdict,	0	70
For every trial where there is a ſpecial verdict, or caſe agreed, and recording the ſame,	1	13
For ſwearing the witneſſes in every other cauſe, where there is no jury or caſe agreed, except by petition,	0	18
For filing the papers of each party in every cauſe, except by petition, and where there is a jury or caſe agreed,	0	18
For a copy of a ſpecial verdict, or caſe agreed, and every thing therein ſet forth, or for making up a full and complete record, for every thirty words,	0	2
For entering every judgment, or for a copy thereof,	0	18
For filing a bill, anſwer, replication, and other pleadings in chancery, for each,	0	18
For a copy thereof, for every thirty words,	0	2
For a commiſſion to examine witneſſes,	0	45

(*a*) 1787, *ch.* 44. (*b*) 1745, *ch.* 1, *ſec.* 2.

	Dols.	Cts.
For attending and writing depoſitions taken againſt inſpectors before juſtices of the peace,	1	75
For entering every decree in chancery,	0	26
For filing the depoſitions in any ſuit, for each party,	0	8
For every depoſition taken in court,	0	18
For a copy of a depoſition,	0	18
For adminiſtering an oath in court, not relating to the trial of any cauſe there depending, and certifying the ſame,	0	18
For every recognizance in court,	0	18
For entering the order or orders in any cauſe in one court,	0	26
For entering every order for attendance of witneſſes,	0	18
For a copy of any order,	0	18
For recording the report of a jury in the county, ſurveyor, auditor or viewers,	0	35
For a copy thereof,	0	35
For taxing coſts to any judgment or decree, where coſts are recovered, or for a copy of a bill of coſts, if required,	0	26
For a copy of an account,	0	18
For entering an appeal, and taking bond to proſecute it,	0	35
For a copy of the bond,	0	18
For returning an appeal and ſecurity to the office of the court of chancery, or a diſtrict court, (as the caſe may be)	0	52
For returning a writ of error, *ſuperſedeas*, *certiorari*, or *habeas corpus*,	0	35
For a copy of the proceedings of the cauſe, wherein the appeal is granted, for every thirty words,	0	2
For recording the acknowledgment of ſatisfaction of a judgment,	0	18
For entering each order for a witneſs's attendance, (to be charged to the party in whoſe behalf the witneſs is ſummoned, and taxed in the bill of coſts, if ſuch party recover,)	0	18
For a copy thereof, to be taxed and charged in like manner,	0	18
For an attachment thereon, to be charged to the party againſt whom the attachment ſhall be iſſued,	0	18
For the whole fee chargeable for every petition for debt, *detinue*, *aſſumpſit*, or *trover*, and all the proceedings therein, including a copy of the judgment, and taxing coſts, if required, except the reſpective fees for ſummoning witneſſes, entering attornies, for every order for continuance, and for iſſuing execution, where any of thoſe matters happen,	0	87
For entering an attorney in ſuch petitions, to be paid by the party by whom ſuch attorney ſhall be employed, and not to be taxed in the bill of coſts,	0	8
For a ſummons for ſeveral witneſſes living in one county, if ſummonſes for all be taken out at one time,	0	18
For recording any thing not herein particularly mentioned, or for a copy thereof, for every thirty words,	0	2
For the acknowledgment and proof of any deed in the county court, and for certifying the ſame to be recorded in the General Court,	0	52

WHICH ſaid ſeveral fees ſhall be charged to the party at whoſe inſtance the buſineſs ſhall be performed, except where it is otherwiſe directed.

The commiſſioners of the high court of chancery.

III. THE commiſſioner or commiſſioners of the High Court of Chancery may iſſue their tickets for the ſums allowed by the ſaid court, for ſervices performed by them under the orders of the ſaid court, and deliver them to the reſpective ſheriffs, at the ſame time the clerk of the ſaid court is directed by law to deliver his tickets; and the ſeveral ſheriffs ſhall collect and account for them in the ſame manner, and under the like penalties, and ſhall have the ſame allowance for collecting and for inſolvencies, as are preſcribed in the caſe of the clerk of the ſaid High Court of Chancery.

Rules in taxing coſts.

IV. IF any plaintiff or defendant, or his or her attorney, ſhall take out copies of his or her own declaration or pleadings, or of his or her own papers in any cauſe, or of any common order made in ſuch cauſe, the charge of ſuch copies ſhall not be allowed in the bill of coſts, although ſuch party recover; and where more attornies than one ſhall be employed in any cauſe on one ſide, if ſuch attornies take out more than one copy of any thing neceſſarily relating to the ſuit, yet no more than one copy ſhall be allowed in the bill of coſts; nei-

ther ſhall the clerk tax any fee in the bill of coſts for entering more than one attorney, although coſts ſhall be adjudged againſt the adverſe party. (a)

	Dols.	Cts.
FOR all public ſervices of the clerk, viz. entering and iſſuing copies of orders for appointing ſurveyors of high ways, appointing conſtables, grand juries, taking a liſt of tithables, entering guardians accounts, and all matters relating thereto; binding out poor orphans, and appointing guardians, entering the levy and copies thereof, and of the liſt of tithables for the collector, and for entering and iſſuing the orders, except againſt guardians, where they ſhall ſtand out in contempt (to be charged to ſuch guardian) and iſſuing the orders for recommending ſheriffs and juſtices, and for proceſſioning, and all other public ſervices for which no particular fee is allowed, to be levied annually by the juſtices of the county,	25	0

In ſuits or motions againſt public debtors.

V. AND where a motion or ſuit ſhall be inſtituted againſt any perſon or perſons for money due to the public, in the name of, or by the perſon authoriſed by law ſo to do, and judgment ſhall be recovered againſt him, her, or them, the clerk of the court wherein ſuch motion or ſuit ſhall be inſtituted, ſhall and is hereby required to charge all the fees accruing thereon, to the perſon or perſons againſt whom ſuch judgment ſhall be obtained.

In what caſes county court clerks may charge fees for making up complete records.

VI. NO county court clerk ſhall charge any fee for making up a complete record, unleſs it be in cauſes where the title or bounds of lands are determined, or where he is to tranſmit the tranſcript of the record of any cauſe to the office of a ſuperior court upon appeals, writs of error, *ſuperſedeas*, *habeas corpus*, or *certiorari*.

Fee bills to be produced

VII. AND to the end all perſons chargeable with any of the fees aforeſaid, may certainly know for what the ſame are charged, *Be it further enacted*, That none of the fees herein before mentioned, ſhall be payable by any perſon whatſoever, until there ſhall be produced, or ready to be produced unto the perſon owing or chargeable with the ſame, a bill or account in writing containing the particulars of ſuch fees, ſigned by the clerk or officer to whom ſuch fees ſhall be due, or by whom the ſame ſhall be chargeable reſpectively; in which ſaid bill or account, ſhall be expreſſed in words at length, and in the ſame manner as the fees aforeſaid are allowed by this act, every fee for which any money or tobacco is or ſhall be demanded.

To the Sheriff or Serjeant,
(as the caſe may be.)

Sheriff's fees.

	Dols.	Cts.
For an arreſt, bond, and return,	0	63
For returning a *capias*, *non eſt inventus*,	0	21
For ſerving a *ſcire facias*,	0	30
For ſerving any perſon with an order of court, and making return thereof,	0	30
For pillorying any perſon,	0	42
For putting into the ſtocks,	0	21
For ducking any perſon,	0	42
For putting in priſon and releaſement,	0	42
For ſerving a *ſubpœna* in chancery,	0	30
For ſerving a ſummons upon a petition for debt, detinue, *aſſumpſit*, or trover,	0	30
For ſerving a *ſubpœna* for a witneſs in any cauſe in court, except ſummoned in court,	0	21
For ſummoning an appraiſer, auditor, viewer, or witneſs to any deed, will, or writing, if required to be ſummoned, but not elſe,	0	21
For ſummoning and impannelling a jury, in every cauſe wherein a jury ſhall be ſworn,	1	5
For coming to and attending the diſtrict court with the *venire*, and return of the *venire facias*, the ſame as is allowed to a *venire* man, (to be paid by the public) and for attending the diſtrict with ſtolen goods where there is no *venire*, the ſame		
For ſummoning the juſtices of the county and attending a court for the examination of a criminal (to be paid by the public,)	4	20
For removing of every criminal from the county jail to a diſtrict jail, for every mile,	0	10

(a) 1745, *ch.* 1.

	Dols.	Cts.
For removing a debtor by *habeas corpus* from the county jail to a district jail, for every mile,	0	4
For executing every condemned perſon, and all fees incident (to be paid as aforeſaid,)	5	25
For ſummoning a jury upon any inquiſition, ſurvey, writ of dower, or partition, if the jury appear,	3	15
And if the jury do not appear,	1	57
For making a return of a writ of dower, partition, or in the nature of an *ad quod damnum*,	1	5
For every day's attendance upon a jury in the country after they are ſworn, or attendance upon a ſurveyor, when ordered by the court,	1	5
For ſerving a writ of *habere facias ſeiſinam*, or *habere facias poſſeſſionem*,	1	5
For ſerving an attachment upon the body,	0	63
For ſerving a writ of *diſtringas* iſſuing from a judgment in detinue when the ſpecific thing ſhall be taken,	1	5
For ſerving a declaration in ejectment, if againſt one tenant,	0	63
And if againſt more tenants than one, for ſerving the declaration on every other tenant,	0	30
For whipping a ſervant, to be paid by the owner, and repaid by the ſervant,	0	42
For whipping a free perſon by order of court (to be paid by ſuch perſon) the ſame,		
For whipping a ſlave by order of court, to be paid by the county, and repaid by the public,	0	42
For taking a bond or bonds to the creditor under the act, intituled, "*An act for reducing into one, the ſeveral acts concerning executions, and for the relief of inſolvent debtors.*" *a*	0	63
For proceeding to ſell on any execution on behalf of the commonwealth, or of any individual, if the property be actually ſold, or the debt paid, the commiſſion of five *per centum* on the firſt three hundred dollars, or ten thouſand pounds of tobacco, and two *per centum* on all ſums above that, and one half of ſuch commiſſion where he ſhall have proceeded to ſale, and the defendant ſhall have replevied, and no other commiſſion, fee, or reward, ſhall be allowed upon any execution, except for the expenſe of removing and keeping the property taken. *b*		
For ſerving an attachment, or for making diſtreſs upon the goods exceeding ten dollars, if ſold, the ſame fee as for ſerving an execution, where the goods do not exceed that value, or are not ſold,	0	63
For every garniſhee ſummoned on ſuch attachment,	0	21
For executing any writ of *diſtringas* or attachment on a decree in chancery, the ſame fee or commiſſions upon the amount of the value of the goods and chattels recovered, or money mentioned in ſuch decree as is by law allowed for ſerving any other execution.		
For ſerving and returning a general or diſtrict court writ, ſummons or order, where the ſame is not comprehended in any of the foregoing articles,	0	63
For making a proclamation as the law directs, in proving of wills or proceeding to outlawry,	0	42
For ſelling a ſervant at public outcry by order of court, and all fees incident,	0	42
For keeping and providing for a debtor in jail, each day,	0	21
For ſerving a juſtice's warrant,	0	21
For ſummoning a witneſs before a juſtice,	0	10
For all public ſervices of the ſheriff, to wit, attending the courts of claims, impannelling grand juries, publiſhing writs for electing delegates or ſenators, and attendance, ſerving all public orders of court (except againſt guardians where they ſhall ſtand out in contempt, to be charged to ſuch guardian) and all other public and county ſervices, to be levied annually by the juſtices on the county,	25	0

No fees to be charged to the defendants in preſentments, if acquitted.

VIII. AND when any perſon or perſons preſented by the grand jury, or proſecuted by the overſeers of the poor, ſhall be diſcharged of ſuch preſentment or proſecution, the clerk, attorney for the commonwealth, and ſheriff, ſhall

(*a*) 1788. *ch.* 77, *ſec.* 4. (*b*) 1791, *ch.* 3, *ſec.* 7

be entitled to no fees for the ſame, but it ſhall be deemed to be included in the public ſervices; but if the party or parties ſo preſented or proſecuted ſhall be convict, then in ſuch caſe the clerk ſhall tax all ſuch fees againſt ſuch party or parties. *a*

To the Coroner,

	Dols.	Cts.	
For taking an inquiſition on a dead body, (to be paid out of the eſtate of the deceaſed) if the ſame be ſufficient, if not by the county,	2	80	Coroner's fees.
For all other buſineſs done by him, the ſame fees as are allowed the ſheriff for the ſame ſervices.			

To the Conſtable,

For ſerving a warrant,	0	21	Conſtable's fees.
For ſummoning a witneſs,	0	10	
For ſummoning a coroner's jury and witneſſes,	1	5	
For putting into the ſtocks,	0	21	
For whipping a ſervant, (to be paid by the owner, and repaid by the ſervant,)	0	21	
For ſerving an execution or attachment, returnable before a juſtice,	0	21	
For ſerving an attachment, returnable to the county court, againſt the eſtate of a debtor removing his effects out of the county,	0	63	
For whipping a ſlave, (to be paid by the overſeer, if the ſlave is under an overſeer, if not, by the maſter,)	0	25	
For removing any perſon ſuſpected to become chargeable to the county, (to be paid by the overſeers of the poor) for every mile,	0	4	
The ſame for returning.			

IX. THE clerks of the general court, high court of chancery, court of appeals, and diſtrict courts, ſhall cauſe to be ſet up in ſome public place in their offices, and there conſtantly kept, a fair table of their fees herein before mentioned, on pain of forfeiting forty dollars, for every court day the ſame ſhall be miſſing through their neglect; and the clerk of every county and corporation court, ſhall in like manner ſet up a fair table of all other fees, herein before mentioned, in the courthouſe of his county, to be there conſtantly kept, on pain of forfeiting twenty dollars, for every court day the ſame ſhall be miſſing through his neglect; and the ſurveyor of every county ſhall alſo cauſe to be ſet up in ſome public place, in his office, and there conſtantly kept, a fair table of his fees, herein before mentioned, on pain of forfeiting three hundred dollars. All which penalties ſhall be to the perſon or perſons, who ſhall inform or ſue for the ſame, and ſhall and may be recovered in any court of record within this commonwealth, by action of debt or information. *a* Tables of fees to be ſet up.

X. IF any officer hereafter ſhall claim, charge, demand, exact, or take any more, or greater fees for any writing, or other buſineſs by him done, within the purview of this act, than herein before ſet down and aſcertained, or if any officer whatever ſhall charge or demand, and take any of the fees herein before mentioned, where the buſineſs for which ſuch fees are chargeable, ſhall not have been actually done and performed, (to be proved by the fee book of ſuch officer, upon his corporal oath) ſuch officer for every ſuch offence ſhall forfeit and pay to the party injured, beſides ſuch fee or fees, ſix dollars for every particular article or fee ſo unjuſtly charged or demanded or taken; to be recovered with coſts, in any court of record in this commonwealth, by action of debt or information: *Provided* the ſame be ſued for within twelve months after the offence ſhall be committed. *b* Penalty for over charging.

XI. AND for the better collecting the ſaid fees, *Be it enacted*, That the ſurveyor of every county ſhall, annually, before the twentieth day of *January*, and the clerk of every diſtrict, county and corporation court, reſpectively, ſhall, annually, before the firſt day of *March*, deliver or cauſe to be delivered, to the ſheriff of every county in this ſtate, and to the ſerjeant of every corporation, reſpectively, their accounts of fees due from any perſon or perſons reſiding therein, which ſhall be ſigned by the clerks or ſurveyors reſpectively. *c* Surveyors and clerks of diſtrict and county courts to deliver accounts of fees to the ſheriffs.

XII. AND the ſaid ſheriffs and ſerjeants are hereby required and empowered to receive ſuch accounts, and to collect, levy and receive the ſeveral ſums of money therein charged of the perſons chargeable therewith; and if ſuch perſon or perſons, after the ſaid fees ſhall be demanded, ſhall refuſe or delay to Their duty in collecting them.

(*a*) *From* 1745, *ch.* 1, *ſec.* 7, 9. *Oct.* '83, *ch.* 32, *ſec.* 5. (*b*) 1745, *ch.* 4, *ſec.* 10. (*c*) 1787, *ch.* 53. *Oct.* '78, *ch.* 14.

pay the same, till after the tenth day of *April*, in every year, the sheriff of that county, or serjeant of that corporation wherein such person resides, or of the county in which such fees became due, shall have full power, and are hereby required, to make distress of the slaves, or goods and chattels of the party so refusing or delaying payment, either in that county or corporation where such person inhabits, or where the same fees became due. And the sheriff of any county, or serjeant of a corporation, for all fees which shall remain due and unpaid after the said tenth day of *April* in any year, either to themselves or the sheriffs or serjeants of another county or corporation, which shall be put into his hands to collect as aforesaid, is hereby authorized and empowered, to make distress and sale of the goods and chattels of the party refusing or delaying payment, in the same manner as for other fees due to any of the officers herein before mentioned; but no action, suit, petition or warrant from a justice, shall be had or maintained for clerks, or surveyors fees, unless the sheriff or serjeant shall return, that the person owing or chargeable with such fees hath not sufficient within his bailiwick whereon to make distress, except where the clerk or other officer, as aforesaid, shall have lost his fee book by fire or other misfortune, so that he be hindered from putting his fees into the sheriff's hands to collect; and in that case any suit or warrant may be had and maintained for the recovery thereof. And if any sheriff shall be sued for any thing by him done in pursuance of this act, he may plead the general issue, and give this act in evidence.

No action to be brought for fees where distress can be made.

When the sheriffs are to account for them.

XIII. EVERY sheriff of every county, and every serjeant of every corporation, shall, on or before the last day of *May*,† in every year, account with the clerks of the respective district, county and corporation courts, and the respective surveyors, for all fees put into his hands pursuant to this act, and pay the same, abating six *per centum* for collecting. And if any sheriff or serjeant shall refuse to account or pay the whole amount of fees put into his hands, after the deductions aforesaid made, together with an allowance of what is charged to persons not dwelling, or having no visible estate in his county, it shall and may be lawful for the clerks or surveyors, their executors or administrators, upon a motion made in the next succeeding district court, or in the court of the county of such sheriff, or in the court of the corporation of such serjeant, to demand judgment against such sheriff or serjeant, for all fees wherewith he shall be chargeable by virtue of this act; and such court is hereby authorized and required to give judgment accordingly, and to award execution thereupon; provided the sheriff have ten days previous notice of such motion. *a*

Remedy against them in case of refusal.

Clerks of the court of appeals, of the high court of chancery and general court, to deliver accounts of fees to sheriffs.

XIV. THE clerks of the courts of appeals, high court of chancery, and general court, shall deliver their tickets to the respective sheriffs and serjeants, annually before the first day of *May*, and the sheriffs and serjeants shall receive and collect the same, and shall distrain and make sale of the debtor's slaves, goods, or chattels, for all such tickets as shall remain unpaid after the first day of *July*, in any year; and if the said sheriffs or serjeants shall fail to pay the said fees to the respective clerks at their offices in *Richmond*, or such town or place as the treasury may be kept at, by the fifteenth day of *September*, annually, abating ten *per centum* for collecting, and making an allowance for insolvencies and non-residents, having no estates within their counties, which shall be accounted for on oath, the said clerks or either of them, their executors or administrators, upon motion made in the court of the district, county or corporation, in which the sheriff or serjeant failing to make payment as aforesaid, may be found, may demand judgment against him for all fees, wherewith he shall be chargeable by this act, and such court respectively shall enter judgment accordingly; provided the sheriff have ten days notice of such motion; and judgment may be obtained as aforesaid against any under sheriff, who may fail to add the name of his principal to the receipt for such fees. *b*

Remedy against them for failing to account for them.

XV. THE executors or administrators of any such sheriff, under sheriff, or serjeant, shall be liable to judgment as aforesaid, for the fees received, to be collected by their testator or intestate, and accounted for. Every receipt for fees produced in evidence on any such motion, shall be deemed to be the act of the person subscribing it, unless he shall deny the same upon oath.

Sheriff's receipt to be deemed his act unless denied upon oath.

XVI. THE clerks of the said courts, their executors or administrators, may obtain judgments as aforesaid, for all balances now due to them from any

† *Altered by acts of* 1796, *ch.* 2, *till* 1*st Sept.* (*a*) 1745, *ch.* 1, *sec.* 13. (*b*) *From* '85, *ch.* 38.

sheriff, under sheriff, or serjeant, on account of fees heretofore put into their hands to be collected.

XVII. THE judges of the superior courts (except the general court) shall make such allowances from time to time to their respective officers as they shall think reasonable; taking into account the time past for which no allowance hath been made by the assembly; which allowances when made and audited, shall be paid by the treasurer out of any public money in his hands.† Superior courts to make allowances to their officers.

XVIII. ALL acts or parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act. Former acts repealed. Proviso.

XIX. THIS Act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. CXVI.

An Act reducing into one, the several Acts for the Settlement and Regulation of Ferries.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That ferries be constantly kept at the places hereafter mentioned, and at the rates annexed to each ferry; that is to say: Public ferries established.

Over the Bay of Chesapeake.

FROM York, Hampton and Norfolk towns, to the land of the heirs of John Bowdoin, deceased, on Hungar's river, for a man or horse passing singly, three dollars and thirty-three cents; for a man and horse, or if there be more, for each, two dollars and fifty cents.

Over Potowmac River and its Branches.

	For a man Cents	For a horse Cents
From Henry Ashton's to Cedar Point, Maryland,	42	42
From Thomas Rowe's to Cedar Point,	42	42
From Hooe's to Cedar Point,	33	33
From Lawrence Washington's to Maryland, opposite,	42	42
From Boyd's-hole to Maryland, opposite,	42	42
From the land of Gustavus Scott in Stafford, to Kennedy's in Maryland,	33	33
From Newport in Prince-William, to Chamberlayne's in ditto,	33	33
From the town of Carbury to Brook's in ditto,	25	25
From William Clifton's to Wallis's in Maryland,	17	17
From Hereford's in Doeg's neck, to the lower side of Pamunkey in Maryland,	17	17
From Hugh West's to Frazier's or Addison's in ditto,	17	17
From Hunting Creek warehouse landing, to Frazier's point or Addison's in ditto,	17	17
From Floyd's to Powell's,	8	8
Over Occoquan in Prince-William to Colchester,	4	4
Over Nominy in Westmoreland,	6	6
From Mason's to Rock Creek in Maryland,	6	6
From Earl Tankerville's in Loudoun, to Maryland,	6	6
From Noland's in Loudoun, to Arthur Nelson's land in ditto,	5	5
From Swearingen's, Berkeley, to his land in ditto,	5	5
From Harper's to his land in ditto,	5	5
From Foreman's, Frederick, to the opposite shore,	5	5
From Aubrey's in Loudoun, to Hook's in Maryland,	5	5
From Watkins's, opposite Canagochego Creek, to Wade's in ditto,	4	4
From John Rout's land, Shenandoah, to the fork, or over the main river,	4	4
From Kersey's or Burwell's to the land of Landon Carter,	5	5
From Key's landing to William Fairfax, or his heir's land,	5	5

† *The substance of this clause so far as relates to district courts, which was repealed in* 1793, *was re-enacted in* 1796, *ch.* 27, *pa.* 22.

	For a man Cents	For a horse Cents
At Williams's Gap, from Lord Fairfax's land, to Ralph Wormeley's land,	5	5
From Samuel Earl's, Frederick, to Lord Fairfax's,	4	4
From Thomas Bryan Martin's, Frederick, over the Shenandoah,	5	5
From John Turberville's at Dial's landing, over Patowmac,	8	8
From Ralph Humphreys's, Hampshire, over the south branch of Patowmac,	6	6
From Thompson Mason's, deceased, Loudoun, over Patowmac,	8	8
From R. Parker's, Hampshire, over south branch, Patowmac,	5	5
From Isaac Parsons's, over the south branch of Patowmac, opposite,	6	6
From John Pankake's, Hampshire, over the south branch ditto, to Jacob Earsom's,	5	5
From B. Rankin's over the Shenandoah, to the land of G. W. Fairfax,	5	5
From Peter Harbout's, Loudoun, over Goose Creek, to the land of Dr. W. Selden,	4	4
From Edward Snicker's at Williams's Gap, over the Shenandoah, opposite,	5	5
From Cuthbert Bullitt's, over the mouth of Quantico,	8	8
From J. Chenowith's, Hampshire, across Cacapon, opposite, to James Largent's,	6	6
From Elias Polton's ditto, across to his land opposite,	6	6
From C. Buck's, Frederick, across the north fork of Shenandoah, mouth of Passage Creek, to the land of Isaac Hite, opposite,	5	5
From Thomas Buck's, to the lands of G. Harden and Rowley Smith,	4	4
From Luther Martin's, Hampshire, across Patowmac, at the confluence of the north and south branches, opposite,	6	6
From Jos. Berry's across the Shenandoah, opposite,	5	5
From J. Chenowith's Hampshire, across great Cacapon Creek, opposite,	6	6
From Conrad Glaze's, Hampshire, across south branch Patowmac, to his land opposite,	6	6
From Rees Prichard's, Hampshire, over the north fork of Great Cacapon, opposite,	6	6
From Benjamin Edwards's, Goose Creek, Loudoun, over Patowmac, opposite,	6	6
From John Hooe's, Prince-William, across Occoquan, to the old warehouse,	4	4
Over Rappahannock and its Branches.		
From Urbanna to Locust Point,	4	4
From the lands of J. Chowning, Lancaster, to Urbanna,	33	33
From Byrd's to Williams's,	33	33
Over Piscattaway Creek in Essex,	4	4
Over Rappahannock Creek, Richmond county,	4	4
From the landing of William Ritchie on Tappahannock to the Causey on the opposite side,	17	17
From Fauntleroy's to the landing of William Ritchie,	25	25
From Ley's land to Robinson's,	8	8
From Leed's Town to the Causey opposite,	8	8
From the Public Landing at Port Royal, to Gibson's warehouse landing,	6	6
From Taliaferro's landing to Carter's,	4	4
From Alexander's to Conway's	4	4
From the wharf at Newport to Ball's landing,	4	4
From Johnson's plantation, Spottsylvania, to Washington's in King George,	4	4
From Fredericksburg warehouse landing to Hunter's landing.	4	4
From Henry Fitzhugh's, Fredericksburg, to the land of William Fitzhugh, opposite,	4	4
From Falmouth to the land of Francis Thornton,	4	4

	For a man Cents	For a horse Cents
From the land of William Richards, Stafford, to those of Simon Miller, Culpeper,	4	4
From the lands of Gawin Lawson, Stafford, to Fielding Lewis's land, Spotsylvania,	4	4
From Port Royal in Caroline, to the lands of Francis Conway, vested in James Bowie, jun.	5	5
From the lands of Landon Carter, Culpeper, across at Norman's Ford,	4	4
From Francis Thornton's lands in Spotsylvania, to the town of Falmouth, opposite, across his bridge,	4	4
At Lowry's across Corotomon river,	6	6
On Pianketank River.		
From Seaton's to the opposite shore,	8	8
From Turk's to the opposite shore,	5	5
On York River and its Branches.		
From York town to Gloucester town,	13	13
From Cappahosick to Scimino,	25	25
From the Brick House to Dudley's,	25	25
From West Point to Dudley's,	13	13
From Fox's in Gloucester, to Scimino over York river,	25	25
From Frazier's to the causey opposite,	8	8
From Mantapike on G. Brooke's land, to the causey on William Frazier's land,	8	8
From Waller's to Walkerton,	8	8
From Brick House to West-Point,	13	13
From Sweet-Hall to Claiborne Gooch's,	8	8
From the land of John Watkins, New-Kent, to Thomas Claiborne's land, King-William,	8	8
From Chamberlayne's to Claiborne's,	8	8
From the land of George Webb, to the opposite landing,	8	8
From Blackwell's to King's,	4	4
From Taylor's land to Nelson's,	4	4
From Philip Aylett's, at his warehouse across Mattapony opposite,	4	4
From Dabney's to Page's,	4	4
On James River and its Branches.		
From Hampton to Brook's Point,	4	4
To Norfolk or Nansemond Town,	One	Doll.
From the Borough of Norfolk to Portsmouth or Washington	5	5
From Portsmouth to Washington,	5	5
From Hodsden's over Pagan Creek to Smithfield	6	6
From Charles Fulgham's to Smithfield,	8	8
From Cockfield's Point, to Robert Peale's near Sleepy-Hole,	8	8
From Jeremiah Godwin's over the western Branch to James Benn's	6	6
From Benjamin Bascomb's over Bennet's Creek, to James Buxton's,	6	6
From John Reid's over the Western Branch, to Jeremiah Godwin's,	4	4
From the lands of Lemuel Riddick, in Suffolk, to Jordan's,	6	6
From Hog-Island in Surry, to Higgason's Landing, so long as the ferry keeper shall keep up the bridge over Hog-Island Creek at his own charge,	21	21
From James-Town to Swan's Point, *vice versa*,	21	21
From Cobham to James-Town, under the regulation of trustees to let the ferry, and superintend the boats,	21	21
From Edloe's land in Charles-City, to his land in James-City,	8	8
From Edloe's land in Charles City, to Armistead's Point,	5	5
From Dancey's land in Charles-City, to Barrett's,	8	8
From Deloney's to Edloe's,	10	10
From Westover to Maycox's, or Coggin's Point,	10	10
From Bermuda-Hundred to Shirley,	8	8
From Bermuda-Hundred to City-Point,	25	25
From the land of Thomas Pierce, Smithfield, across Pagan Creek, to the land of William Hodsden,	17	17

	For a man	For a horſe.
	Cents	Cents
From the land of William Black, Cheſterfield, over James River to Rocketts.	6	6
From the land of David Roſs, Bedford, acroſs James River at the mouth of Archer's Creek, to the land of R. Bolling,	4	4
From William Anderſon's, Botetourt, over James River to William Crow's ſhore,	4	4
From the lands of William Pride, over Perſie Stile's Creek, to the land of Peter Baugh,	4	4
From the land of Henry Trent, Amherſt, over the Fluvanna, to the land of Nicholas Davies,	4	4
From Nicholas Lewis's, Albemarle, acroſs the Rivanna,	4	4
From Charles Woodſon's, in Henrico, to Tarlton Woodſon's, Cheſterfield,	6	6
From Bolling's Point, over Appamattox River,	3	3
From the lands of Henry Batte, Henrico, to the glebe lands, Verina,	5	5
From Charles Ellis's to Daniel Weldon's,	4	4
From the land of Reuben Coutts, in Richmond, to Mancheſter Town,	6	6
From the upper landing in Beverly Town, to the land of Anderſon Britton,	4	4
From the land of Matthew Woodſon, to the Manacon Town,	4	4
From the land of Benjamin Jude, to the land of William Reynolds,	4	4
From the land of Samuel Woodſon, to the land of Jacob Michaux,	4	4
From the land of John Woodſon, below the mouth of Willis's creek, to his lands on the oppoſite ſide of the river,	4	4
From the point of the fork of the Fluvanna and Rivanna Rivers, acroſs the Fluvanna, to the lands of Joſeph Mayo, deceaſed,	4	4
From the point of the fork of the Fluvanna and Rivanna rivers, acroſs the Rivanna, to the lands of David Roſs,	3	3
From the ſaid lands of David Roſs, to the lands of Joſeph Mayo, deceaſed,	4	4
From the lands of John Harvie, acroſs the Rivanna, to the lands of David Roſs,	4	4
From the lands of David Roſs, acroſs the Fluvanna, to his lands on the oppoſite ſhore,	4	4
From John Lynch's, Bedford county, acroſs the Fluvanna,	4	4
From the land of John Nicholas, over Slate river,	4	4
From the land of John Scott, over the Fluvanna, to the lands of Randolph Jefferſon,	4	4
From the land of William Howard, over Rockfiſh river, to his lands oppoſite,	4	4
From ditto, over the Fluvanna, to Thomas Anderſon's landing, and from ſaid Anderſon's to Howard's,	4	4
From the land of Nicholas Cabell, in the county of Amherſt, at the mouth of Swann creek, over the Fluvanna, to the land of Francis W. Spencer,	4	4
From the land of John Cabell, in the county of Buckingham, over the Fluvanna, to his land on the oppoſite ſhore,	4	4
From the land of Joſeph Cabell Megginſon, in the county of Buckingham, over the Fluvanna, to his land on the oppoſite ſhore,	4	4
From the land of G. Stovall, over the Fluvanna, to his land oppoſite,	4	4
From the land of William Crow, to the land of Andrew Boyd, Botetourt, over James river,	4	4
From the land of John Buchanan's heirs, to his lands oppoſite,	4	4
From Branch's, on James river, to the oppoſite ſhore,	4	4
From the land of Jacob Michaux, to the land of Thomas Atkins,	4	4
From the land of Wilſon Cary Nicholas, acroſs the Fluvanna, to the lands of John Hardy,	4	4
From the lands of Henry Martin, jun. Fluvanna, over the north fork of James river,	6	6

	For a man.	For a horse.
	Cents	Cents
From the lands of John Grymes, deceaſed, over the weſt branch of Elizabeth river, to the land of M Warren oppoſite,	6	6
From Richmond to Mancheſter, over Mayo's bridge,	6	6
Over Nottoway River.		
From Thomas Drew's land, to Dr. Browne's,	4	4
From Bolton's land, to Simmons's land,	4	4
Over the toll-bridge in Southampton,	4	4
On Roanoke River and its Branches.		
From Skipwith's land, Mecklenburg, to the oppoſite ſhore,	4	4
From the land of John Dix, Pittſylvania, acroſs the Dan river, to his land oppoſite,	4	4
From Anderſon's land, to Taylor's land,	4	4
From the land of ſir Peyton Skipwith on the north ſide, to his land on the ſouth ſide, over the rivers Staunton and Dan,	4	4
From Maynard's to Field's,	4	4
From Samuel Jones's land, to Frederick Jones's land,	4	4
From Fox's land, to Blanton's land,	4	4
From Roſs's land, to Royſter's land,	4	4
From William Black's land, to the oppoſite ſhore,	4	4
From Hunt's land, to Abney's land,	4	4
From the land of Edward Booker, Halifax, to the land of John Fuqua, Charlotte,	4	4
From Black's land, to Brua's ford,	4	4
From Simms's land in Halifax, to Randolph's land, acroſs Staunton river,	4	4
From Morton's landing, to Watkins's,	4	4
From the land of Edward Mitchell, Mecklenburg, acroſs the Roanoke, to the land of Chriſtopher Haſkins,	4	4
From John Flin's, acroſs Staunton river, to Thomas Hoard's, oppoſite,	4	4
From Cargill's in Charlotte, to Fouſhee's land, Halifax, over Staunton river,	4	4
From Watkins's to Murphy's,	3	3
From Irving's landing acroſs Dan river, to Davenport's,	4	4
From John Bibb's acroſs Staunton river, to the oppoſite ſhore,	4	4
From Cole's to Fuqua's,	4	4
From Boyd's to Hopſon's,	4	4
From the lands of John Owens, Pittſylvania, over the Dan, to Sylveſter Adams's land,	4	4
From the land of Margaret Boyd, over Dan, to her land oppoſite,	4	4
From the land of Nathaniel Terry to Fuqua's,	4	4
From Dix's to Green's,	4	4
From Harman Miller's, Halifax, to Legrand's over Dan river,	4	4
From Jones's in Halifax, to Selden's oppoſite, acroſs the Dan,	4	4
From David Brandon's over Dan, to the land of John Lawſon,	4	4
From John Boyd's over Dan, to the land of Patrick Boyd,	4	4
From the land of Joſeph Eckolls, Halifax, acroſs Staunton river, oppoſite,	4	4
From Wade's over Staunton, to the oppoſite ſhore,	4	4
From John Ward's, over Staunton, Bedford, to his land oppoſite	4	4
From John Canefax's, Campbell, acroſs Staunton, to Ward's oppoſite,	4	4
From J. Harper's, acroſs the Meherrin, over his bridge,	3	3
From the land of William Gee, acroſs Meherrin, to his land oppoſite,	3	3
Ferries on the Ohio river and its branches.		
From the lands of Van Swearingen, Ohio county, acroſs the Ohio,	8	8
From the land of David Chambers, Ohio county, acroſs the Ohio oppoſite,	8	8
From the land of George Cox, Ohio county, acroſs Ohio oppoſite,	8	8
From the land of Abſalom Wells, Ohio county, acroſs the Ohio oppoſite,	8	8

	For a man. Cents	For a horfe. Cents
From the land of Reaſon Pomfrey, Ohio county, acroſs the Ohio oppoſite,	8	8
From the land of Jonas Miniſer, Ohio county, acroſs the Ohio oppoſite,	8	8
From the lands of Jeſſe Martin, acroſs Monongahela, to the land of James Hord, on the oppoſite ſhore,	4	4
From the land of Jeſſe Martin, acroſs Monongahela, to the ſhore of David Scott,	4	4
From the lands of James Cleland, Monongalia, acroſs Cheat river,	4	4
From the lands of Andrew Ramſay, Monongalia, acroſs to William Morgan's, and from Morgan's to Ramſay's, the ſame,	4	4
From Joſiah Prickett's, Monongalia, acroſs the Monongahela oppoſite,	4	4
From Robert Wood's, Ohio, acroſs the Ohio, oppoſite,	8	8
From the land of John Henderſon, Ohio, acroſs the Ohio, oppoſite,	8	8
From the lands of Iſaac Williams, Harriſon county, acroſs the Ohio above and below the mouth of the Muſkingum,	8	8
From the lands of Thomas Evans acroſs the Monongahela, at the mouth of Decker's creek, oppoſite,	4	4
From the lands of John Pettyjohn, Monongalia, acroſs Tyger Valley river,	4	4
From the lands of Andrew Jee, over Cheat river, to Jacob Scott's ſhore,	4	4
From the land of Thomas Butler, over Cheat river, to his land oppoſite,	4	4
From the land of Samuel Morton, Monongalia, acroſs Big Sandy creek, to the land of John Connor, ſenior, oppoſite,	4	4
From the land of George Jackſon, Harriſon county, over E[illegible] creek oppoſite,	3	3
From the land of John Wickwire, Harriſon county, over Ty[illegible] Valley river,	4	4
From the lands of John Jones, Ohio county, acroſs the [illegible] oppoſite,	8	8
From the lands of David Scott, acroſs Monongahela river	[illegible]	4
From the lands of Charles Prather, Ohio, acroſs the O[illegible] oppoſite ſhore,	8	8
From the lands of Charles Prather, Ohio, acroſs [illegible] of Buffaloe creek, to the oppoſite ſhore,	3	3
From the lands of Edward Duling, deceaſed, Ohio county, over Ohio river, oppoſite,	8	8
From the lands of Edward Duling, acroſs the mouth of Fiſhing creek, to the land of Robert Woods,	3	3
From the lands of Robert Woods, Ohio, acroſs the Ohio, oppoſite,	8	8
From the lands of George Hollinbough, Monongalia, acroſs Monongahela, to the land of Aſa Holl,	4	4
From the lands of Thomas Lewis, Kanawha county, acroſs Ohio river, to the land of Iſaac Greyham, oppoſite,	8	8
From the lands of Thomas Lewis, acroſs the Kanawha river, to the lands of Robert Henderſon, oppoſite,	6	6
From the land of Cornelius Brown, in Montgomery, over New-river oppoſite,	4	4
From the lands of Samuel Pepper, at Buffaloe pond, Montgomery, over New-river, oppoſite,	4	4
From the land of William Ingles, over New-river, to the oppoſite ſhore,	4	4
From the land of John Anderſon, over Greenbrier river, to the oppoſite ſhore,	5	5
From the land of Auſtin and company, at the Lead Mines, Wythe, over New-river, to the oppoſite ſhore,	4	4
From the lands of Thomas Herbert, in Wythe, acroſs New-river, to the oppoſite ſhore,	4	4
From the lands of Dudley Evans, Monongalia, over Monongahela river, to the lands of George Wilſon,	4	4

	For a man. Cents	For a horse Cent
From the lands of John Collins, Monongalia, over Monongahela at the mouth of Robinson's run, oppoſite,	4	4
From the lands of [illegible] Caldwell, Ohio county, acroſs the mouth of Wheeling creek to the lands of Ebenezer Zane,	4	4
From the [illegible] of Jeremiah Davison, Harriſon county, over weſt fork of Monongahela, to William Berkley's, oppoſite,	4	4
From the lands of Edward Jackſon, Randolph county, acroſs Buckhannon river,	4	4

Same rates, &c. at the oppoſite ferries.

II. THE [illegible] of ferries kept oppoſite to thoſe abovementioned, ſhall be governed by the ſame rates and rules.

Rates for wheel carriages.

III. THE [illegible] portation of the following things ſhall be at the rates following: For every coach, waggon, chariot, and the driver, the ſame as for ſix horſes. For every four wheeled chaiſe, phæton, and driver, the ſame as for four horſes. For every two wheeled riding carriage, the ſame as for two horſes. For every hogſhead of tobacco, the ſame as for one horſe. For every head of neat cattle, the ſame as for one horſe. For every ſheep, hog, goat or lamb, one fifth part of the ferriage for one horſe.

Tobacco, cattle, ſheep, goats, and hogs.

Penalty for taking greater rates.

IV. IF the keeper of any ferry or toll-bridge ſhall demand and take from any perſon, a greater ſum for the ferriage or toll, than is allowed by this act, ſuch offender ſhall forfeit to the perſon ſo overcharged, the ferriage or toll demanded and received, and two dollars for every ſuch offence; recoverable before any juſtice of the peace of the county.

County courts to direct the number of boats & hands, &c.

V. THE court of every county or corporation wherein a ferry is, or ſhall be appointed, ſhall have, and is hereby declared to have authority of ordering and directing what boat or boats, and the number of hands which ſhall be kept at each ferry reſpectively, and the owner of the land whereon any ſuch ferry is, if he hath not already given bond and ſecurity, ſhall within ſix months from the commencement of this act, give bond with one ſecurity, in the court of the county or corporation wherein ſuch ferry is, in the penalty of ſixty dollars, with condition, that he will duly keep ſuch ferry, or cauſe the ſame to be kept according to law, and will give immediate paſſage to all public meſſengers and expreſſes, when required, from time to time. And in caſe any ſuch perſon ſhall neglect or refuſe to give ſuch bond, or to cauſe the ſame to be given on his behalf, he ſhall forfeit and pay ſeven dollars for every month's refuſal or neglect to the governor for the time being, and his ſucceſſors, for the better ſupport of the contingent charges of government, recoverable with coſts, in any court of record, where the ſame ſhall be cognizable.

Owners of ferries to give bond and ſecurity.

Public expreſſes to be ferry free.

VI. ALL expreſſes ſent on public ſervice by a member of the council, or commander in chief, general or field officer, to the governor for the time being, or the commanding officer of the militia in the next county, to give intelligence of the approach of an enemy, ſhall be accounted public meſſengers and expreſſes, and ferry free, within the condition and meaning of the bond aforeſaid, in caſe the diſpatch carried by ſuch expreſs, be endorſed "on public ſervice," and ſigned on the ſuperſcription by the perſon ſending the ſame.

Men attending ferries to be free from levies, muſters, &c.

VII. AND for encouragement of ferry keepers, and in conſideration of ſetting over public meſſengers, and the perſons exempted by this act: *Be it further enacted*, that all the men attending the ſaid ferries be free of county levies, and from all other public ſervices of muſters, conſtables, clearing highways, impreſſments and other things of like nature, and that keepers of ferries ſhall not be chargeable with any fee for giving bond; and if the county or corporation court ſhall find it requiſite or uſeful that an ordinary be kept at any ferry, they may licenſe ſuch ferry-keeper to keep ordinary, without any fee for the licenſe, or obtaining the ſame, notwithſtanding there be a ſufficient number of other ordinaries in the ſame county or corporation. *Provided always*, that every ferry-keeper ſo licenſed to keep ordinary, ſhall give bond and ſecurity, and be liable to the ſame penalties as other ordinary keepers. And if any other perſon whatſoever ſhall for reward, ſet any perſon or perſons over any river or creek, whereon public ferries are by this act appointed, he or ſhe ſo offending, ſhall forfeit and pay twenty dollars for every ſuch offence, one moiety to the ferry-keeper neareſt the place where ſuch offence ſhall be committed, the other moiety to the informer; and if ſuch ferry-keeeper informs, he ſhall have the whole penalty; to be recovered with coſts.

Owners may be licenſed to keep ordinaries without fee.

Penalty on other perſons taking ferriages.

Court of Norfolk coun[illegible]

VIII. IT ſhall be lawful for the court of the county of *Norfolk*, to let

y to be ferries acroſs Elizabeth river annually

annually to the higheſt bidder, the ferries acroſs *Elizabeth* river and the branches thereof, taking bond and good ſecurity for due payment of the money, and to apply the ſame as it may be received, towards leſſening the county levy.

County courts may eſtabliſh ferries oppoſite to thoſe now appointed.

IX. WHERE there is no ferry correſponding to one appointed by this act, it ſhall be lawful for the court of the county to conſtitute an oppoſite ferry, with the ſame rates. And the courts are empowered to appoint ferries over ſuch rivers and creeks in their reſpective counties, as ſhall be deemed convenient and neceſſary.

For what cauſes ferries heretofore eſtabliſhed ſhall be diſcontinued.

X. ALL ferries heretofore eſtabliſhed, and which have not been generally frequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued, unleſs the perſons entitled to keep the ſame, ſhall within ſix months after the paſſing of this act, procure all neceſſary boats and ferrymen, for the tranſportation of paſſengers at their reſpective ferries.

For what cauſes thoſe hereafter eſtabliſhed ſhall be diſcontinued.

XI. ALL ferries now eſtabliſhed, and which may be hereafter generally diſuſed and unfrequented for the ſpace of two years, ſhall be likewiſe diſcontinued, unleſs neceſſary boats and ferrymen are prepared for the ſame, within the ſpace of ſix months, after the expiration of the ſaid two years. And all ferries which may be hereafter eſtabliſhed, and which ſhall not be furniſhed with neceſſary boats and ferrymen within the ſpace of ſix months after the eſtabliſhment thereof, or ſhall at any time thereafter be generally diſuſed and unfrequented for the ſpace of two years, ſhall be, and the ſame are hereby diſcontinued.

The owners to be ſummoned on complaint to ſhew why they ſhould not be diſcontinued.

XII. AND it ſhall be lawful for the court of the county in which ſuch ferry or ferries ſhall be, on complaint to them made, to ſummon the proprietor or proprietors of the ſame, to ſhew cauſe why it ſhall not be diſcontinued, and to decide according to the teſtimony adduced.

Ferry keepers may convey paſſengers, &c. from either ſide to the other

XIII. IT ſhall and may be lawful for any keeper of a ferry, to take into his boat or boats any paſſenger or paſſengers, carriages, horſes, or cattle of any kind whatſoever, on either ſide, to convey them over, and to receive the ferriage for the ſame; any law, uſage, or cuſtom to the contrary, notwithſtanding.

Repealing clauſe.

XIV. ALL and every other Act and Acts, clauſe and clauſes of Acts, heretofore made for, or concerning any matter or thing within the purview of this Act, ſhall be, and are hereby repealed.

Commencement of this Act

XV. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXVII.

An Act reducing into one, the ſeveral Acts for regulating the Inſpection of Flour and Bread.

[Paſſed the 21ſt of December, 1792.†]

Preamble.

I. WHEREAS the laws heretofore made for the inſpection of flour, have been found defective, and it has become neceſſary to adopt ſome regulations for the prevention of frauds in the exportation of bread: *a*

Inſpectors of flour to be appointed. Places of inſpection.

II. *BE it therefore enacted by the General Aſſembly*, That one inſpector of flour ſhall be appointed at each of the following places, to wit:—*Alexandria, Frederickſburg, Richmond, Peterſburg, Blandford, Weſt Point, Newcaſtle, York, Falmouth, Port-Royal, Hobb's-Hole, Colcheſter, Dumfries, Mancheſter, Oſborne's, Pocahuntas, Nomony, Broadway, Low-Point* in *Surry, Suffolk, Hampton, South-Quay, Norfolk, Morgan's Town, Smithfield, Fort-Wheeling, Lynchburg, Hanover-Town, Portſmouth, Cumberland-Town*, at the mouth of *Buffaloe* Creek, on the lands of *Charles Prather*, and at the mouth of *Short* Creek, on the lands of *David Chambers*, in the county of *Ohio*.

Inſpectors how to be appointed.

III. THE courts of the ſeveral counties in which the places aforeſaid are ſituated, ſhall at their courts held in the months of *September* or *October* in every year, nominate and appoint a perſon of good repute, and who is a ſkilful judge of the quality of flour, to be inſpector of flour at each of the places aforeſaid. In caſe of the death of any perſon ſo appointed, or his refuſal or neglect to act, the juſtices of the ſaid counties reſpectively, or any three of them, ſhall as ſoon as conveniently may be thereafter, meet together and appoint ſome other perſon in the room of the one ſo dead, or refuſing or neglecting to act, who ſhall execute the duties of his office, until the next court held

† *Amended, in* 1793, *and in* 1795, *ch.* 7, *pa.* 11. *Alſo Dec. Seſſ.* 1801, *ch.* 26, *pa.* 14. (*a*) 1787, *ch.* 30.

for the county, where such vacancy may have happened; and at such court the justices shall appoint in manner before directed, some person to be inspector of flour for the residue of the year. If any of the said courts shall neglect to appoint such inspector at the time directed by this act, the governor, with the advice of the council, may supply such vacancy; and the person so appointed, having taken the oath herein after mentioned, before a justice of the peace, shall continue in office during the same time, and have the same power and authority as if he had been appointed by the court of the county.

Wheat flour not to be mixed with any other.

IV. ALL bolted wheat flour, and every cask thereof, brought to any of the places before mentioned for exportation, shall be made by the miller or manufacturer thereof, merchantable and of due fineness, and without any mixture of coarser flour, or the flour of any other grain than wheat.

How barrels to be made.

V. ALL bread and flour casks which shall be brought to any of the places before mentioned for exportation, shall be well made, of good seasoned materials, tightened with ten hoops, sufficiently nailed with four nails in each chine hoop, and three nails in each upper bilge hoop; and the flour barrels shall be of the following dimensions, to wit: the staves shall be twenty-seven inches in length, and the heads seventeen inches and a half in diameter; and half barrels shall be of the following dimensions, to wit: the staves shall be of the length of twenty-three inches, and the diameter at each head of twelve inches and a half.

Millers and bakers to keep brand marks.

VI. EVERY miller of flour and baker of bread for exportation, shall provide and keep a distinguishable brand-mark, with which he shall brand every cask of flour and bread, and mark thereon the tare and nett weight, before the same shall be removed from the place where it was bolted or baked, under the penalty of forty-two cents for every cask of flour not hooped and nailed as aforesaid, and for every cask of flour or bread so removed, and not branded and marked as aforesaid, to be recovered from such miller or baker, who shall neglect to comply with the directions of this act or from the person who brings such flour or bread to any of the places aforesaid for sale; and in case the penalty aforesaid shall be recovered from the person bringing the said flour or bread for sale, such person shall and may recover the same from the miller, baker, or bolter, from whom such flour or bread was purchased or received; provided that it appears that he gave notice to such miller, baker, or bolter, that he intended to carry the same to one of the places before mentioned for sale or exportation, and that he requested such baker, miller, or bolter, to secure and brand the said barrels.

Penalty for removing flour and bread not hooped, nailed, and branded.

Contents of casks of flour.

VII. EVERY miller and bolter shall put into a barrel the full quantity of one hundred and ninety-six pounds of flour, and shall put into every half barrel the full quantity of ninety-eight pounds of flour; and if any one of them shall put a smaller quantity of flour into any cask than is directed by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three, seventeen cents.

Penalty for deficiency in the weight.

Casks of bread to be weighed and tare marked thereon.

VIII. ALL casks wherein bread shall be packed, shall be weighed and the tare marked thereon; and if any person shall put a false or wrong tare on any cask of bread, to the disadvantage of the purchaser, he or she shall forfeit for every cask so falsely tared, eighty-three cents; and the inspector, or his assistants, upon suspicion, or at the request of the purchasers, shall, and he is hereby required, to unpack any cask of flour or bread; and if there shall be a less quantity of flour than is above directed, or if the cask wherein bread is packed, shall be found to weigh more than is marked thereon, the miller, baker, or bolter (as the case may be) shall pay the charges of unpacking and repacking, over and above the penalties aforesaid; but otherwise the said charges shall be paid by the inspector, or by the purchaser, if the trial be made at his request.

Inspector may unpack flour suspected to be falsely packed.

Bakers to deliver manifests with bread intended to be exported.

IX. EVERY baker of bread for exportation, shall deliver with the said bread a manifest of the contents thereof, with his brand marked thereon, and his name subscribed thereto, under the penalty of seven dollars for every manifest delivered contrary thereto; and if any cask of bread be found lighter upon trial, than is set down in the manifest, he shall forfeit for every pound deficient, in the same proportion as is heretofore directed as to flour.

Penalty for deficiency in the weight.

Flour to be inspected before exported.

X. ANY cask of flour brought to any of the places before mentioned, to be from thence laden or shipped for exportation, shall be submitted to the view and examination of the inspectors at such place, who shall inspect and try the same, by boring through the head with an instrument, not exceeding half an inch in diameter, to be by him provided for that purpose; and if he shall judge that the same is well packed and merchantable according to the directions of this act, he

Marks when inspected.

shall plug up the hole and brand the cask in the quarter, with the name of the place at which he is inspector, with a public brand-mark to be provided for that purpose; and shall also brand and mark the degree of fineness, which he shall, on inspection, determine the said flour to be of, which degree shall be distinguished as follows, to wit: Superfine, fine, middling, ship-stuff; for which trouble the inspectors at *Alexandria, Fredericksburg, Falmouth, Richmond, Manchester, Petersburg, Pocahuntas*, and *Blandford*, shall have and receive of the

Fee for inspection.

owner of such flour, the sum of two cents for each cask, and at every other place of inspection, the inspectors shall be allowed three cents for each cask. No inspector shall pass any flour which shall prove on examination to be unmerchantable, according to the true intent and meaning of this act; but shall cause the same to be marked on the bilge with the word "condemned," or secure it for

Inspector to condemn unmerchantable flour.

a further examination, if required, which examination the owner shall procure to be made within twenty days, and the inspector shall and may demand and receive from the owner or owners thereof, the same rate and prices as if the same had been passed. When any person shall think himself aggrieved by the

But the proprietor may have it reviewed.

judgment or want of skill in an inspector, in rejecting flour as unmerchantable, it shall be lawful for such person to apply to a justice of the peace, who shall at the charge of the complainant, issue a warrant directed to three indifferent persons, well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation, as by this act is hereinafter directed to be taken by every inspector of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word "condemned," and put such brand on the said flour, as they or any two of them shall direct, and shall re-pay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review; and the said inspector for his trouble, shall and may receive three cents for each cask by him received, in case his judgment shall be confirmed. It shall not be lawful for any person to export or lade on board of any ship or vessel for exportation, out of this state,

Penalty for exporting condemned or uninspected flour.

any cask of flour marked "condemned," by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of flour not inspected or branded as aforesaid, on pain of forfeiting ten dollars for every cask or barrel exported or laden on board any ship or vessel for exportation.

Penalty for packing flour, &c. in old casks which have been branded and marked.

XI. AND whereas complaints have been made that evil disposed persons have packed flour and meal in old casks which have been branded agreeable to this act, by which means that valuable staple is often injured at foreign markets: *Be it enacted*, that if any person shall pack flour or meal of any kind whatsoever, in a cask which has been inspected and branded with the name of a miller, such person shall forfeit and pay twenty dollars for every barrel so falsely packed for sale, to be recovered by petition and summons in any county or corporation court, one half to the use of the informer, and the other half to the miller who has been injured by such false packing; and shall also be liable to the action of the party aggrieved.

When flour may be inspected at merchant mills.

XII. *PROVIDED nevertheless*, That where any mill for the manufacturing of flour shall be situated on navigable water, below the falls, it shall be lawful for the owner of such mill to require the inspector of flour, who resides the nearest thereto, to attend and inspect the flour manufactured by him, and the inspector or his deputy is hereby required to inspect and brand all such flour, in the same manner as if such flour had been carried to the place at which he is inspector, and the proprietor may thereupon export the same in like manner, as if it had been inspected at any of the before mentioned places.

XIII. EVERY inspector of flour before he enters on the execution of his office shall make oath or affirmation—

THAT he will without favor, affection, malice or partiality, carefully inspect all flour brought to him, and which he shall be required to examine; that no flour shall be pass'd or branded by him without his inspecting the same; that he will not brand, or cause to be branded, as pass'd, any cask or casks of flour, that do not appear to him to the best of his skill and judgment, to be sufficiently clean, well ground, sweet and merchantable; that he will mark on all casks of flour the degree thereof, according to the directions of this act; that he will carefully examine the casks in which flour brought for inspection shall be contained; and that he will not pass or brand any such casks, unless they be of such size, goodness and thickness, as by this act required.

XIV. NO inſpector of flour ſhall directly or indirectly purchaſe any flour by him condemned, or any other flour whatſoever, other than for his own uſe, under the penalty of ſeven dollars for every barrel by him purchaſed. Not to purchaſe flour.

XV. IF any perſon ſhall alter the mark ſtamped on any caſk of flour by an inſpector, or ſhall mark or brand any caſk of flour which has not been inſpected, with any mark or brand ſimilar to, or in imitation of an inſpector's mark or brand, or after an inſpector ſhall have paſſed any caſk of flour as merchantable, ſhall pack into ſuch caſk any other flour, or after any caſk of flour ſhall be branded "condemned," ſhall unpack and repack the ſame in other caſks for exportation, ſuch perſon ſhall forfeit and pay the ſum of ſeven dollars for every caſk. Penalty for altering the mark of flour. For marking uninſpected flour. For packing other flour in caſks marked. For packing condemned flour in other caſks.

XVI. IF the quantity of flour which ſhall be brought to any of the above mentioned places for inſpection, ſhall at any time be ſo great that the inſpector cannot alone examine the ſame with ſufficient diſpatch; or if through ſickneſs the inſpector ſhall be incapable of diſcharging the duties of his office, on ſuch occaſions, it ſhall be lawful for him to appoint one or more perſons of good repute, and good judges of the quality of flour to aſſiſt him in the execution of his office. Such aſſiſtants having taken the oath or affirmation preſcribed by this act to be taken by an inſpector, ſhall be authoriſed to inſpect and brand any flour in the ſame manner as the inſpector may do. When inſpectors may appoint deputies.

XVII. THE courts of the ſeveral counties in which the before mentioned places are ſituated, may at any time remove from office any inſpector of flour for neglect of duty, malfeaſance, or corrupt practices, and may ſupply the vacancy occaſioned thereby, by appointing another inſpector for the reſidue of the year. How they may be diſplaced.

XVIII. THE penalties and forfeitures impoſed by this act may be recovered by the informer before a ſingle magiſtrate, where the penalty does not exceed five dollars, and where they are over that ſum, but do not exceed twenty dollars, the ſame ſhall be recovered by petition in the ſame manner as is by law directed in caſe of petitions for the like ſum of money, and where the penalty incurred ſhall exceed the ſum of twenty dollars, the proſecutor may ſue for the ſame in the court of the county, or corporation, where the defendant reſides, or where the offence was committed, one half of which ſaid penalties and forfeitures ſhall accrue to the uſe of the informer, and the other half to the uſe of the commonwealth, if not otherwiſe appropriated. The proſecutor may make oath before the juſtice of the peace, of the nature of the action, and that he verily believes the defendant hath incurred the penalty and forfeiture thereby demanded, which the clerk upon a certificate thereof to him produced, ſhall endorſe upon the back of the writ, and thereupon the defendant ſhall be ruled to give ſpecial bail. Penaltiss how recoverable. Defendants may be ruled to give ſpecial bail.

XIX. ALL acts or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, that nothing in this act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, penalties or amercements which have accrued, been veſted, or incurred prior to the commencement of this act. Former acts repealed, Proviſo.

XX. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this Act.

CHAP. CXVIII.

An Act directing the mode of ſuing out and proſecuting Writs of Habeas Corpus.†

[Paſſed the 19th of December, 1792.]

1. BE *it enacted by the General Aſſembly*, That whenſoever a *habeas corpus* ſhall be ſerved by delivering it to the officer or other perſon to whom it is directed, or by leaving it at the jail or priſon in which the party ſuing it out is detained, unleſs the warrant of commitment plainly and ſpecially expreſs the ſame to have been for treaſon or felony, if the charges of bringing the priſoner, to be aſcertained by the court or judge who awarded the writ, and thereon indorſed, not exceeding ſeventeen cents *per* mile, be paid or tendered, and ſufficient ſecurity to pay the charges of carrying him back, in caſe he be remanded, and that he will not eſcape by the way, be given, then the officer, or his deputy, within three days after ſuch ſervice, or if the priſoner is to be brought more than twenty miles, within ſo many days more as will be equal to one day for every twenty miles of ſuch further diſtance, ſhall make return of the Duty of officers and others to whom writs of habeas corpus are directed. Charges of conveying the priſoner before the court, &c. to be tendered to them.

† *See ante. Diſtrict Court law, ſec.* 22. *See County Court law, ſec.* 67.

writ, and bring the body of the prisoner, or cause it to be brought, before the proper judge or judges, according to the command thereof; and then shall likewise certify the true causes of his detainer or imprisonment.

By whom such writs shall be signed. How they shall be obtained.

II. EVERY such writ shall be signed by him who awards it.

III. AND if any person shall be, or stand committed or detained as aforesaid for any crime, unless it be for treason or felony, plainly expressed in the warrant of commitment, in the vacation time, the prisoner not being convict, or in execution by legal process, or any one on his behalf may appeal and complain to the judge of the high court of chancery, or any judge of the general court, who at the request of such prisoner, or other person on his behalf, attested by two witnesses present at the delivery thereof, is hereby authorised upon view of a copy of the warrant of commitment or detainer, or otherwise upon affidavit made, that such copy was desired to be given by him in whose custody the prisoner is detained, to award and grant a *habeas corpus*, to be directed to the officer in whose custody the party committed or detained shall be, returnable immediately before the said judge, or any other judge of one of the said courts; and upon service thereof as aforesaid, the officer or his deputy, in whose custody the party is so committed or detained, shall within the times before respectively limited, bring the prisoner before the court, or one of the judges thereof before whom the writ is made returnable, or in case of his absence before any other of them, with the return of the writ, and the true causes of commitment and detainer; and thereupon the judge before whom the prisoner shall be brought, shall, within two days thereafter, discharge him from imprisonment, taking his recognizance, with surety in any sum, according to the discretion of the judge, having regard to the circumstances of the prisoner and nature of the offence, for his appearance in the court of the district the term following, or in some other court where the offence is properly cognizable, as the case shall require; and then also certify the said writ with the return thereof, and the said recognizance into the said court where such appearance is to be made, unless it shall appear to the judge, that the party so committed is detained upon a legal process, order or warrant, out of some court that hath jurisdiction of criminal matters, or by some warrant signed and sealed with the hand and seal of any of the said judges, or some justice of the peace, for such matters or offences, for the which by the law the prisoner is not bailable.

When and before whom returnable.

How the prisoner when brought before the judge shall be discharged

When writs of habeas corpus shall not be granted in vacation.

IV. IF any person shall have wilfully neglected, by the space of two terms after his imprisonment, to pray a *habeas corpus* for his enlargement, such writ shall not be granted to him in vacation in pursuance of this act.

Penalty on the officer for disobeying the writ, &c.

V. ANY officer neglecting or refusing to make the return aforesaid, or to bring the body of the prisoner according to the command of the writ within the time aforesaid, or not delivering a true copy of the warrant of commitment and detainer within six hours after demand thereof made, to the prisoner, or person demanding it on his behalf, which copy the officer or his deputy is hereby required to deliver, shall forfeit to the prisoner three hundred dollars; to recover which, the right of action shall not cease by the death of either or both the parties.

No person to be again committed for the same offence after a discharge on a habeas corpus.

VI. NO person who shall have been delivered upon a *habeas corpus*, shall afterwards be imprisoned or committed for the same offence, otherwise than by the order or process of the court wherein he shall be bound by recognizance to appear, or some other court having jurisdiction of the cause.

Prisoners not to be removed from the custody of one officer to another, except in particular cases.

VII. A CITIZEN of this commonwealth committed to prison in custody of an officer for any criminal matter, shall not be removed from thence into the custody of another officer, unless it be by *habeas corpus*, or some other legal writ, or where the prisoner shall be delivered to the constable, or other inferior officer, to be carried to some common jail, or shall be sent by warrant of an overseer of the poor to some common work-house, or shall be removed from one place to another, within the same county, in order to his discharge or trial in due course of law; or in case of sudden fire or infection, or other necessity, or where the prisoner shall be charged by affidavit with treason, felony, or other crime, alledged to be done in any other of the United States of *America*; in which last case he shall on demand from the Executive authority of the state from which he fled, be sent thither in custody by order of the general court, or warrant of any two judges thereof in vacation time, or may be bound by recognizance with sureties before them, to appear there, whichsoever shall seem most proper, if the said court or judges, upon consideration of the matter, shall think he ought to be put upon his trial.

Writs of habeas corpus, by whom they may be granted.

VIII. ANY perſon as aforeſaid, may move for and obtain his *habeas corpus* as well out of the high court of chancery as out of the general court, or out of the court of that diſtrict wherein he ſhall be confined. And if any judge of either of the ſaid courts in the vacation time, upon view of the copy of the warrant of commitment or detainer, or upon affidavit made, that ſuch copy was denied as aforeſaid, ſhall refuſe any writ of *habeas corpus*, by this act required to be granted, being moved for as aforeſaid, ſuch judge ſhall be liable to the action of the party grieved.

Penalty on a judge refuſing to grant one.

Repealing clauſe.

IX. ALL and every act and acts, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

X. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXIX.

An Act for improving the Breed of Horſes.

[Paſſed the 24th of December, 1792.]

Penalties for ſuffering a ſtoned horſe to run at large.

I. BE *it enacted by the General Aſſembly*, That no perſon ſhall ſuffer a ſtoned horſe of the age of two years, whereof he is owner, or hath the keeping, to run at large out of the incloſed ground of the owner or keeper; and whoſoever ſhall wilfully or negligently do ſo, after having been admoniſhed to confine ſuch horſe, ſhall forfeit and pay twenty dollars to him who will ſue for it, and double that ſum for any ſuch tranſgreſſion, after one conviction; and if after a ſecond conviction, the ſame horſe be found ſo running at large, it ſhall be lawful for the perſon who will take him up, to retain him to his own uſe. *a*

After a ſecond conviction the perſon taking him up may retain him.

Repealing clauſe.

II. ALL and every act and acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

Commencement of this act.

III. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXX.

An Act reducing into one, the ſeveral Acts making Proviſion for the Reſtraint, Support and Maintenance of Ideots and Lunatics, and the Preſervation and Management of their Eſtates.†

[Paſſed the 24th of December, 1792.]

Directors of the lunatic hoſpital incorporated.

I. BE *it enacted by the General Aſſembly*, That the preſent directors of the hoſpital for the reception of perſons of unſound minds, and their ſucceſſors, to be choſen when vacancies happen, by the Governor, with the advice of the Council, are hereby conſtituted and appointed a body politic and corporate, to have perpetual continuance, by the name of the directors of the hoſpital for the maintenance and cure of perſons of unſound minds; and by that name may ſue, and be ſued, and may and ſhall have, and uſe a common ſeal, and are enabled to take and hold any eſtate, real or perſonal, given or to be given to the ſaid hoſpital, or to themſelves, for the uſe thereof, ſo as the annual revenue, or income of ſuch donations, exceed not three thouſand dollars; any law or ſtatute to the contrary notwithſtanding. *b*

Annual income of the hoſpital not to exceed a certain ſum.

Directors may chooſe a preſident:

Seven to form a court.

Keeper, matron, nurſes, guards.

II. THE ſaid directors ſhall and may ſo often as it may be neceſſary, chooſe a preſident to continue in office until his death, reſignation or removal; and they, or any ſeven of them, ſhall form a court, and ſhall from time to time ordain regulations for the government of the ſaid hoſpital, and appoint a keeper and matron thereof, with nurſes and guards when they ſhall be neceſſary; and provide for the accommodation, maintenance, and cure of the patients remaining and to be received therein.

Juſtices to examine inſane perſons;

III. BY warrant to be directed to the ſheriff or ſerjeant, a juſtice of the peace ſhall order to be brought before him, any perſon whoſe mind, from his own obſervation, or the information of others, he ſhall ſuſpect to be unſound, and with two other juſtices, who at his requeſt, ſhall aſſociate with him, ſhall enquire into the ſtate of ſuch perſon's mind, and the ſaid juſtices ſhall write down as well what ſhall appear to themſelves, as what ſhall be teſtified by witneſſes,

(*a*) 1785, *ch.* 73, *ſec.* 1. † *Amended Dec. ſeſſ.* 1801, *ch.* 11. (*b*) 1788, *ch.* 35. 1785, *ch.* 87.

touching the ſuppoſed inſanity; and if two of them adjudge the party to be ſuch a perſon as ought to be confined in the hoſpital, and ſome friend will not become bound with ſurety, to reſtrain and take proper care of him, or her, until the cauſe for confinement ſhall ceaſe, the ſaid juſtices, or two of them, ſhall order the inſane to be removed to the ſaid hoſpital and there received, and for that end direct a warrant to the ſheriff or ſerjeant, and a mittimus to the ſaid keeper, tranſmitting therewith to the latter, the examinations of the witneſſes, and a relation of ſuch facts as the ſaid juſtices ſhall think pertinent to the ſubject, to be laid before the directors.

And ſend them to the hoſpital, unleſs ſecurity be given for their reſtraint.

How to be received, examined and regiſtered.

IV. THE ſaid keeper immediately after the perſon removed ſhall be delivered to him, the receipt of whom he ſhall acknowledge, in a writing ſigned by him, and delivered to the ſheriff or ſerjeant, ſhall inform the preſident thereof, who ſhall require his colleagues to meet as ſoon as may be, and at ſuch meeting, which ſhall not unneceſſarily be delayed, the directors, if having conſidered the caſe, they concur in opinion with the juſtices, ſhall regiſter the inſane as a patient, but they may at any time afterwards deliver him or her to a friend, becoming bound to reſtrain and take care of him or her, in the ſame manner as the juſtices might have done.

But may be delivered to their friends, giving ſecurity for their reſtraint.

Or diſcharged if the directors do not think it neceſſary to confine them.

V. IF upon the examination of any perſon charged with being a lunatic or ideot, or otherwiſe inſane, the ſaid court ſhall be of opinion, that he or ſhe ought not to be confined, it ſhall be lawful for the ſaid court forthwith to diſcharge him or her. *a*

Juſtices to ſend with an inſane perſon a certificate of his eſtate.

VI. WHEN any inſane perſon ſhall be removed as aforeſaid to the ſaid hoſpital, the juſtices before whom ſuch perſon was examined, ſhall cauſe a certificate of the eſtate of ſuch inſane perſon (if any there be) and of the probable annual profits ariſing therefrom, to be ſent to the ſaid directors, together with the proceedings before directed, to be tranſmitted to them; and ſhall alſo certify ſuch removal, and the inſane's eſtate, to the next court to be holden for the county, city, or borough, whence ſuch removal was. On receipt of ſuch certificate, it ſhall be lawful for ſuch court, to appoint a committee, in whoſe hands ſhall be committed ſuch inſane's eſtate, for the ſafe keeping and good management thereof; which committee ſhall have power to ſue for, and recover all debts due to, and be liable to be ſued for all debts due from ſuch inſane perſon, in the ſame manner as executors to deceaſed perſons are or may be; and out of the profits of ſuch inſane perſon's eſtate, the ſaid court may direct to be defrayed, the expenſes attending, as well the removal as the annual ſupport of every ſuch perſon while remaining in the ſaid hoſpital, to be paid to the ſaid court of directors. *Provided*, That ſuch county, city, or borough court, may allow a reaſonable ſupport to the family of ſuch inſane perſon, (if any he hath) out of his eſtate, ſo that neither the expenſes attending ſuch inſane perſon, nor the allowance to his family, ſhall defeat the claims of his or her creditors. Upon the appointment of any ſuch committee by the court as aforeſaid, ſuch court ſhall take bond, with good ſecurity, in a ſufficient penalty, for the true and faithful performance of the truſt thereby repoſed in them; and in caſe of failure in the examining juſtices to perform the duties by this act enjoined, or in caſe of failure in any ſuch court, to appoint committees as aforeſaid, and to take ſuch bond and ſecurity as is hereby required, the juſtices in either caſe ſo refuſing or neglecting, ſhall forfeit and pay for every ſuch refuſal or neglect, one hundred and fifty dollars, to be proſecuted for, and recovered by the attorney general in the name of the ſaid court of directors, for the uſe of the commonwealth. *b*

Committees to be appointed to manage eſtates of inſane perſons.

Profits thereof to be applied to the ſupport of them and their families.

Committees to give bond with ſecurity.

Penalty on the juſtices for neglect.

How a committee ſhall be appointed, where an inſane perſon removes out of the ſtate.

VII. IF any perſon poſſeſſing lands or other property in this commonwealth, ſhall have removed, or ſhall hereafter remove out of the State, the high court of chancery, or the court of the county or corporation in which the greater part of ſuch perſon's property is, (on ſatisfactory proof being made that ſuch perſon has become inſane) ſhall and may appoint a committee, into whoſe hands ſhall be committed ſuch inſane's eſtate, for the ſafe keeping thereof, and for the neceſſary ſupport of ſuch inſane, and his or her family; which committee ſhall give the like ſecurity, have the ſame powers, and be governed by the ſame rules as are preſcribed for the committees appointed by virtue of a certificate from juſtices of the peace, who have examined inſane perſons, agreeably to the directions of this act.

Inſane infants to be examined and ſent to the hoſpital.

VIII. IN caſe an infant child or ward, be ſuggeſted by the parent or guardian of ſuch infant child or ward, to be of unſound mind, the court of the coun-

(*a*) 1788, *ch.* 56. (*b*) 1790, *ch.* 19, *ſec.* 2.

ty, city, or borough, wherein such person may reside, shall appoint three justices to examine into the state of his or her mind; and upon the report of the said justices, if the suggestion appears to be true, such court shall order the insane to be removed to the hospital, in the manner before directed, where he or she shall be received and registered. *a*

Expense of maintaining and curing registered insanes, how to be defrayed.

IX. THE expense of maintaining and endeavoring to cure a registered insane, shall be paid by the public, and reimbursed out of his estate, (if any such there be); and in case of an infant, not an orphan, shall be reimbursed by the parent, if of sufficient ability to support such infant; to be adjudged of, and certified by the court of that county where the parent resides, and may in either case be recovered by an action, in the name of the directors, who shall account for what shall thus come to their hands.

Hospital accounts to be audited and discharged as other public accounts.

X. ACCOUNTS of expenses incurred in the execution of this act, as well as for repairing the hospital, and other necessary incidental works and services, shall be audited and discharged in the same manner as other public accounts.

Persons cured of insanity to be discharged.

XI. THE directors shall enlarge every person confined in the hospital who shall appear to them to be perfectly cured of insanity, and give such person a certificate thereof.

Persons confined in the hospital to be deemed inhabitants of the counties from which they were removed.

XII. A PERSON registered in the hospital, shall nevertheless, during the time of his or her confinement, be deemed an inhabitant of that county, in which was his or her legal settlement at the time of his or her removal to the hospital.

Directors may choose a president pro tempore.

XIII. IN case of the absence of the president of the directors, the members present may choose a president, *pro tempore*. *b*

How directors shall vacate their seats.

XIV. ANY director who shall remove to the distance of twenty miles or upwards, from the said hospital, shall be considered as having vacated his office.

Two guards allowed for removing an insane to the hospital.

XV. NOT more than two persons shall be paid as a guard for removing any insane person to the said hospital; which two shall have the same allowance made them for their services, as is at present allowed to guards employed in removing criminals, and who shall be paid by the court of directors, out of the monies appropriated for the use of the hospital. *c*

Committees of insanes seized of lands in trust, may execute such deeds, &c. as the trustees could if of sound mind.

XVI. WHERE any person of unsound mind, is, or shall be seized or possessed of any lands, tenements, or hereditaments, in trust, or by way of mortgage, the committee appointed for the care of such person, on the petition of one or more of the parties interested, and after hearing them all, may execute any such deed, or perform any other such act, as the trustee or mortgagee, if he were of sound mind, might have executed or performed. And such deed or other act shall be as valid, except that he shall not be bound by a warranty or other covenant contained in the deed. Such committee may also make or take a surrender of a former lease, or take or make a new lease, as the case may require, and as it shall seem most for the advantage of such insane person; out of whose estate, any fine that may be advanced, and all other just expenses that may be incurred in order to obtain a new lease to him, shall be reimbursed, and the new lease shall not only be chargeable with such fine and expenses, but shall remain subject to all incumbrances which the lease surrendered would have been subject to. *d*

Estates of lunatics, &c not sent to the hospital to be kept as the estates of those who are.

XVII. THE lands, tenements and chattels, of all ideots and lunatics whatsoever, shall be kept in like manner as is herein before directed, in the case of such as be sent to the hospital, safely, without waste or destruction; and they and their household, shall live and be maintained competently, with the profits of the same; and the residue, besides their sustentation, shall be kept for their use, to be delivered unto them when they come to right mind; and if they die in such state, their lands and chattels shall be distributed in the manner directed by the act, intituled, "*An act to reduce into one, the several acts directing the course of descents.*" *e*

Estates of persons dying insane, how to be disposed of.

Repealing clause.

XVIII. ALL and every act and acts, clause and clauses of acts, concerning any matter or thing within the purview of this act, are, and shall be henceforth repealed.

Commencement of this act.

XIX. THIS act shall commence in force, from and after the passing thereof.

(*a*) 1785, *ch.* 87. (*b*) 1788, *ch.* 56. (*c*) 1790, *ch.* 19, *sec.* 4. (*d*) 1785, *ch.* 85, *sec.* 1. (*e*) 1785, *ch.* 68.

CHAP. CXXI.

An Act to regulate Impreſſes.†

[Paſſed the 24th of December, 1792.]

Officers and others making illegal impreſſes, to be apprehended and ſecured until diſcharged by due courſe of law.

I. BE *it enacted by the General Aſſembly*, That if any officer, ſoldier, commiſſary, quarter-maſter, or other perſon, ſhall preſume to take from any citizen or citizens of this commonwealth, any part of their property by way of impreſs, unleſs it be by warrant from the executive in caſe of actual invaſion, or by the ſheriffs or ſerjeants bringing criminals to a diſtrict court, or in ſuch other caſes as is or ſhall be expreſsly allowed by law, it ſhall be lawful for any magiſtrate in the county or corporation where the offence is committed, upon information on oath, to iſſue his warrant for the immediate taking and ſafe keeping of ſuch offender or offenders, till they are delivered by due courſe of law; and all officers of the militia are hereby enjoined to ſupport the civil power in ſecuring and bringing ſuch offenders to juſtice.

Repealing clauſes

Proviſo.

II. ALL and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, (except as hereinafter provided) ſhall be, and the ſame are hereby repealed: *Provided always*, that nothing in this act contained ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

III. THIS act ſhall commence in force, from and after the paſſing thereof.

CHAP. CXXII.

An Act concerning tributary Indians.

[Paſſed the 24th of December, 1792.]

Tributary Indians not to ſell their lands to any, other than perſons of their own nation.

I. BE *it enacted by the General Aſſembly*, That it ſhall not be lawful for any *Indian* king, or any other tributary *Indians* whatſoever, upon any pretence, or upon any conſideration, to bargain and ſell, or demiſe to any perſon or perſons, other than to ſome of their own nation, or their poſterity, in fee, for life or for years, the lands laid out and appropriated for the uſe of ſuch *Indians*, or any part or parcel thereof; or to bargain and ſell as aforeſaid, any other land whatſoever now actually poſſeſſed, or juſtly claimed, and pretended to by the ſaid *Indians*, or any of them, by virtue of any articles of peace made and concluded with ſuch *Indians* by this commonwealth, or by the government exiſting previous to the eſtabliſhment of this commonwealth, or by virtue of any other right and title whatſoever; and every bargain, ſale, or demiſe, hereafter made contrary to this act as aforeſaid, ſhall be, and is hereby declared to be null and void to all intents, conſtructions, and purpoſes. *a*

Penalty for purchaſing or occupying their lands.

II. IF any perſon or perſons (other than the *Indians* and their poſterity) ſhall from and after the publication of this act, preſume to purchaſe or obtain any deed, or conveyance in fee, or any leaſe for years, from any of the tributary *Indians*, of any lands, tenements, or hereditaments, laid out or appropriated, or now actually poſſeſſed, or juſtly claimed, or pretended to by the ſaid *Indians*, or ſhall occupy or tend any of the ſaid lands by permiſſion of the ſaid *Indians*; or otherwiſe, every perſon ſo offending, and being thereof lawfully convicted in any court of record within this commonwealth, ſhall forfeit and pay the ſum of one dollar and ſixty-ſeven cents for every acre of land ſo purchaſed, leaſed, or occupied, and ſo for every year ſuch perſon or perſons may hold poſſeſſion of ſuch lands, by virtue of ſuch purchaſe or leaſe; one moiety of which penalty ſhall accrue to the commonwealth, the other moiety to the informer; to be recovered by action of debt or information in any court of record within this commonwealth.

Indians rights and privileges to be ſecured to them.

III. THE *Indians* tributary to this government, ſhall be well ſecured and defended in their perſons, goods and properties; and whoſoever ſhall defraud or take from them their goods, or do hurt or injury to their perſons, ſhall make ſatisfaction, and be puniſhed for the ſame according to law, as if the *Indian* ſufferer had been a citizen of this commonwealth.

Repealing clauſe. Proviſo.

IV. ALL acts or parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed. *Provided always*, that nothing in this act ſhall

† *Nov.* 1781, *ch.* 36. (*a*) 1705, *ch.* 14.

be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CXXIII.

An Act declaring that Joint-Tenancy may be pleaded in Abatement.

[Passed the 19th of December, 1792.]

I. BE *it enacted and declared by the General Assembly*, That in all actions, real or mixed, which shall hereafter be brought for the recovery of any lands or tenements, within this commonwealth, if the tenant shall plead that he holdeth the tenements in demand, jointly with his wife, or any other person, not named in the writ, and shew forth a deed testifying the same, and demand judgment of the writ, and thereupon issue be joined, and it be found against the truth of the plea by him in manner and form aforesaid pleaded, the plaintiff shall recover his seisin of the tenements in demand, and double damages against the party by whom such plea shall have been pleaded; but if it be found that the matter aforesaid was truly and lawfully alledged by such defendant in his plea, the writ shall be abated. *a* Tenant in real actions falsely pleading joint tenancy in abatement, liable to double damages.

II. *PROVIDED always*, That no such plea shall be admitted or received, in any case, unless the party offering the same, shall prove the truth thereof by oath or affirmation, as the case may require. Such plea be sworn to.

III. ALL and every statute and statutes, act and acts, within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

IV. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. CXXIV.

An Act reducing into one, the several Acts concerning the Inspection of Lumber.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That it shall be lawful for the courts of the several counties and corporations within this commonwealth, to appoint so many inspectors of lumber within their respective limits, as they shall deem necessary. *b* Inspectors to be appointed.

II. THE inspectors so to be appointed, shall, before they enter on the execution of their office, give bond and security, in the sum of one thousand dollars, for the faithful performance of the duties of their office, and shall moreover take the following oath:— *c* How qualified.

I, , do swear that I will well and truly demean myself as inspector of lumber, without favor, affection, or partiality. So help me GOD.

And the inspectors to be appointed by virtue of this act, shall in all cases be governed by the following regulations; that is to say, all drawn white oak hogshead staves, shall not be less than forty-two inches long, three inches wide, and three quarters of an inch thick, when green, and five eighths of an inch, if seasoned; white oak hogshead heading, shall be twenty-eight, thirty, and thirty-two inches in length, with a due proportion of each length, and five inches in breadth, seven eighths of an inch thick, when green, and three quarters of an inch, if seasoned; the staves and heading aforesaid, to be without sap: Red oak hogshead staves, shall not be of less dimensions than the white oak aforesaid: Rough hogshead staves shall be at least forty-two inches long, three and an half inches wide, and one inch thick: Barrel staves shall be at least thirty-two inches long, three and an half inches wide, and three quarters of an inch thick: Pipe staves shall be at least four feet and a half long, three inches wide, and one inch thick: Shingles shall not be less than eighteen inches long, four inches wide, and half an inch thick at the butt; And all plank, scantling, and ranging timber, shall be sound, and have square edges. Length, breadth and thickness of staves and heading. Of shingles. Plank, scantling, &c. to have square edges.

III. THE inspectors of lumber, shall be entitled to demand and receive the following fees: For all hogshead staves and heading, twenty-five cents *per* Inspectors fees.

(*a*) 34, *Edw.* 1, *ch.* 1. (*b*) 1787, *ch.* 18. (*c*) 1786, *ch.* 98.

thousand: For all pipe staves, thirty-three cents *per* thousand: For all barrel staves, seventeen cents *per* thousand: For all shingles, six cents *per* thousand: For all plank and scantling, fifty-six cents *per* thousand: And for all ranging timber, forty-two cents *per* thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not to be exported until inspected.

IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of such vessel shall produce inspectors' notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board but what is particularly entered in his manifest. Any master, commander, or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

Vessels not to be cleared until the masters produce such certificate, and take an oath.

Penalty for exporting it without.

Repealing clause. Proviso.

V. ALL Acts or parts of Acts, coming within the purview of this Act, shall be, and are hereby repealed. *Provided always*, That nothing in this Act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this Act.

Commencement of this Act.

VI. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CXXV.

An Act providing that the Exception of Non-tenure of Parcel, shall not abate the whole Writ.

[Passed the 19th of December, 1792.]

Exception of non-tenure of parcel, not to abate the whole writ.

I. BE *it enacted and declared by the General Assembly*, That by the exception of non-tenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the non-tenure which is alledegd. *a*

Repealing clause.

II. ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXXVI.

An Act providing a Method to help and speed Poor Persons in their Suits. †

[Passed the 24th of December, 1792.]

Poor persons may sue out original writ, &c. without paying therefor.

I. BE *it enacted by the General Assembly*, That every poor person who shall have cause of action against any person within this commonwealth, shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of *subpœna*, according to the nature of his cause, nothing paying for the same. *b*

The court shall assign them counsel.

II. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and neceessary to be had for the speed of the said suit to be had and made

(*a*) 25, *Edw.* 3, *ch.* 16. † *Act of* 1795, *pa.* 16, *sec.* 2, *directs that whenever a person detained in slavery shall petition the court to sue in Forma Pauperis, counsel shall be assigned him to prosecute the suit, and that before process shall issue the counsel shall make to the court a statement of facts, with his opinion, and if court shall thereupon think proper, process to be issued, and complt. may be kept in body of sheriff till the owner gives bond to have him forthcoming.* (*b*) 1786, ch. 65.

who shall do their duties without any reward for their councils, help and business in the same.

III. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs. *a* When plaintiffs shall pay no costs.

IV. ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed. Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CXXVII.

An Act to reduce into one, the several Acts for regulating Pilots, and ascertaining their Fees. †

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That *Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish*, and *Edward Rudd*,‡ or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot. Examiners appointed.

II. EACH examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him. *b*

III. EVERY person applying to be examined, shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of five dollars. And if upon examination, such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot. *c* Persons applying for examination to produce certificates to the examiners. Fee for examination. Branches to be given to those who are qualified.

IV. ALL pilots within this commonwealth, shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted, the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall, on or before the first day of *May* next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same. *d* Pilots to be arranged into three classes.

V. THOSE pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burthen or description. Those belonging to the second class, shall be confined to the charge and pilotage of such vessels, whose draught of water does not exceed twelve feet. And those belonging to the third class, shall be confined to the charge and pilotage of vessels, whose draught of water shall not exceed nine feet. To take charge of vessels according to their classes.

VI. EVERY person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act, on such as violate the terms of their branch and respective class; to be recovered in like manner. Removal out of the state, a disqualification.

VII. WHEN any branch pilot shall have an apprentice that in the opinion of the examiners shall be qualified to take charge and pilot a vessel, it shall and may be lawful for the examiners to give to such apprentice or apprentices a copy of his master's branch, and endorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge. Examiners may give to apprentices copies of their masters branches.

(*a*) 23, *H.* 8, *ch.* 15, *sec.* 2. † *Amended Dec. sess.* 1801, *ch.* 3. ‡ *Several new examiners appointed this sess.* (*b*) 1791, *b.* 25. (*c*) 1786, *ch.* 38, 1791, *c.* 25. (*d*) *Ib.*

How pilots may be ſuſpended and removed.

VIII. IN caſe of the miſconduct or miſbehaviour in any pilot in the exerciſe of his buſineſs, it ſhall be lawful for the examiners to ſuſpend him; and if upon examination before the next ſucceeding county or corporation court, the court ſhall be of opinion that ſuch miſconduct or miſbehaviour is ſufficiently proved, they ſhall cauſe the ſame to be certified to the examiners, and the perſon ſhall thenceforth be altogether diſqualified, and ceaſe to act as a pilot.

Names of the boat and port to be painted on the foreſail.

IX. EVERY pilot-boat, the owner whereof hath or ſhall obtain a branch in this commonwealth, ſhall have, ten feet below the head of his foreſail, and on each ſide thereof the name of ſuch boat and the port to which ſhe belongs, painted in letters of not leſs than nine inches in length.

Pilots muſt keep ſufficient boats.

X. NO perſon whatever ſhall be permitted to execute the buſineſs of a pilot, notwithſtanding he may have ſuch branch as aforeſaid, unleſs he, or the company to which he belongs, ſhall keep one ſufficient boat of eighteen feet keel at the leaſt, under the penalty of one hundred and fifty dollars for every veſſel ſuch pilot ſhall undertake to conduct; to be recovered with coſts in any court of record in this commonwealth, by the party ſuing for the ſame, to his or her own uſe; and if any perſon not having ſuch branch, and keeping ſuch boat as aforeſaid, ſhall preſume to take upon himſelf to conduct or pilot any veſſel coming from ſea, to or from any place or places hereafter mentioned, every ſuch perſon ſhall forfeit and pay the ſum of one hundred and fifty dollars; to be recovered with coſts in any court within this commonwealth, by the party ſuing for the ſame; and moreover ſuch perſon ſhall be liable for all damages occaſioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth, by the party injured. *a*

Penalty for piloting a veſſel without having a branch and boat.

Proviſo as to veſſels in diſtreſs.

XI. *PROVIDED*, That this act ſhall not be conſtrued to extend to hinder any perſon or perſons from aſſiſting any veſſel in diſtreſs, ſo as he or they ſhall deliver up ſuch veſſel to the pilot, who ſhall come on board and offer to undertake the conducting of her; for which ſuch aſſiſtant ſhall and may demand and receive from the ſaid pilot, half the fees allowed for pilotage by this act.

No more than four pilots to be in partnerſhip.

XII. NO more than four pilots ſhall be in partnerſhip, under the penalty of three hundred dollars each, to be recovered with coſts by any perſon ſuing for the ſame.

Rules for maſters of veſſels and pilots.

XIII. EVERY maſter of a merchant veſſel coming from ſea, ſhall be obliged to receive the firſt pilot who offers below the *Horſe-ſhoe*, to conduct his veſſel, or ſhall pay him full pilotage to the firſt port, and ſhall continue the ſame pilot to his port of diſcharge; and every pilot cruizing or ſtanding out to ſea, ſhall offer his ſervices firſt to the veſſel neareſt land, or in moſt diſtreſs; and if any pilot not being hindered by ſickneſs, or any other lawful cauſe, ſhall refuſe to go on board any veſſel when required by the maſter, to execute his office, ſuch pilot or pilots in either caſe, ſhall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured ſixty dollars, and be liable to be ſuſpended by them for ſuch time as they ſhall think fit. Every veſſel having no pilot on board, and following another that has a pilot, ſhall pay ſuch pilot half fees.

Pilots loſing veſſels incapacitated and liable to damages.

XIV. IF any pilot ſhall negligently or careleſsly loſe any veſſel under his care, and be thereof convicted by due courſe of law, he ſhall forever after ſuch conviction, be incapable of acting as a pilot in this ſtate, and ſhall be alſo liable to pay all ſuch damages as any perſon or perſons ſhall ſuſtain by ſuch negligence or careleſſneſs, to be recovered in manner before directed.

Rates of pilotage.

XV. THE following and no greater prices ſhall be taken or demanded for pilotage, that is to ſay; On *James* river for all veſſels coming from ſea, from *Cape Henry*, or *Lynhaven Bay*, to *Hampton road*, ſix dollars and ſixty-ſeven cents; and for going out to ſea, five dollars; and for each foot depth of water they draw, from *Hampton road*, or *Sewell's point*, to *Norfolk* or *Portſmouth*, fifty cents *per* foot; to *Sleepy hole*, or *Look-out*, ſixty-one cents *per* foot; to *Pagan* creek, fifty cents *per* foot; to *James*-town, one dollar and twenty one cents *per* foot; to *Martin's Brandon*, one dollar and thirty-three cents *per* foot; to *Flour-de-Hundred*, one dollar and forty-two cents *per* foot; to *City-point*, or *Bermuda Hundred*, one dollar and eighty-three cents *per* foot; to *Four-Mile* creek, two dollars and twenty-one cents *per* foot; to *Oſborne's*, two dollars and fifty cents *per* foot; to *Warwick*, two dollars and eighty-one cents *per* foot; and to *Richmond*, three dollars *per* foot. On *York-river*, coming from ſea, from the *Capes*,

(*a*) 1786, *ch.* 38.

or *Lynhaven-Bay*, to *York* town, ten dollars; and for going to sea, six dollars and sixty-seven cents; from *Back* river, or *Egg Island*, to *York* town, five dollars; from *York* town to *West-point*, eighty-one cents *per* foot; to *Cumberland*, one dollar *per* foot; to the higheſt landings on *Pamunkey* river, one dollar and twenty-five cents *per* foot; to *Shepherd's*, ninety-two cents *per* foot; to *Meredith's*, *Moore's*, or the higheſt lands on *Mattapony*, one dollar and nineteen cents *per* foot. From *Cape Henry* to any river on *Mockjack bay*, ten dollars; from the *Cape* to *Urbanna*, thirteen dollars and thirty-three cents; and for going from *Urbanna* to ſea, ten dollars; from *Urbanna* to *Tappahannock*, eighty-three cents *per* foot; to *Naylor's hole*, eighty-one cents *per* foot; to *Leeds's* or *Micou's*, one dollar and twenty-nine cents *per* foot; to *Port Royal*, one dollar and eighty-three cents *per* foot; to *Frederickſburg*, two dollars and twenty-nine cents *per* foot; from *Cape Henry* to *Pianketank*, thirteen dollars and thirty-three cents; from *Cape Henry* to *Smith's point*, on *South Potomac*, coming from ſea, twenty dollars; and for going out, ſixteen dollars and ſixty ſeven cents; from *Smith's point*, to *Coan* or *Yeocomico*, fifty cents *per* foot; to *Machadock*, fifty-eight cents *per* foot; to upper *Machadock*, eighty-one cents *per* foot; to *Nungomy*, one dollar *per* foot; to *Boyd's hole*, one dollar and eight cents *per* foot; to *Quantico*, one dollar and twenty-one cents *per* foot; to *Occoquan*, one dollar and twenty-nine cents *per* foot; to *Piſcattaway*, one dollar and fifty-eight cents *per* foot; to *Alexandria*, one dollar and eighty-nine cents *per* foot; to *Eaſtern Branch*, two dollars *per* foot; and the ſame fees by the foot back again, and from the places aforeſaid to the *Capes*. And where any maſter of a veſſel ſhall give reaſonable notice to the pilot, he ſhall employ, of the time and place ſuch maſter ſhall appoint for his attendance, and ſuch pilot ſhall attend accordingly, he may demand and take the ſum of one dollar and ſixty-ſeven cents for every day he ſhall be detained by ſuch maſter's not being ready to proceed according to his notice; and if any pilot ſhall demand or exact any greater or other fee, he ſhall forfeit double the ſum ſo demanded; recoverable before two juſtices, one of whom being of the quorum, with coſts, by the informer.

Allowance where they are detained by the veſſel's not being ready.

XVI. AND to the end that ſtrangers may not be impoſed on in the rates of pilotage as ſettled by this act, *Be it enacted*, That every pilot appointed in purſuance of this act, ſhall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for ſervices performed on board any veſſel, he ſhall produce the ſaid copy to the maſter of the veſſel, to ſhew that he demands no greater fee than is allowed by this act. And if any pilot ſhall neglect or refuſe ſuch copy as aforeſaid, he ſhall forfeit and pay ſixty dollars to any perſon who ſhall ſue for the ſame, to be recovered in any court within this ſtate. *a*

Pilots to carry with them, and produce a copy of this act.

XVII. AND where any pilot has reaſon to believe the maſter of any veſſel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the ſame to the collector or other officer of the cuſtoms, where the maſter of ſuch veſſel clears out; and the ſaid collector or other officer of the cuſtoms, is hereby authoriſed to demand and receive the ſaid pilotage, before the maſter ſhall be permitted to clear out his veſſel. The collector or other officer of the cuſtoms, ſhall retain two and an half *per centum* for receiving money and paying the ſame to the pilot.

Officers of the cuſtoms not to permit a veſſel to clear out till the pilotage is paid.

XVIII. THE public printer ſhall furniſh the examiners, on demand, with one hundred copies of this act; one of which copies ſigned by three of the ſaid examiners, ſhall be delivered to each pilot.

Examiners to be furniſhed with copies of this act.

XIX. ALL and every act and acts, clauſe and clauſes of acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed.

Repealing clauſe.

XX. THIS Act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

CHAP. CXXVIII.

An Act reducing into one, the ſeveral Acts for regulating the Inſpection of Pork, Beef, Tar, Pitch, and Turpentine.

[Paſſed the 26th of December, 1792.]

Preamble.

I. WHEREAS experience has ſhewn, that the eſtabliſhment of proper regulations for the inſpection of pork, beef, tar, pitch, and turpentine, have contributed to the ſale and export of thoſe articles: *b*

(a) 1786, *ch.* 38. *(b)* 1762, *ch.* 3.

II. *BE it therefore enacted by the General Assembly*, That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale or exported, until the same shall be packed or filled in barrels, under the regulations herein after expressed; and the justices of every county court within this commonwealth, are hereby authorised and required, whenever application shall be made to any court for that purpose, and in the months of *August* and *September*, annually, to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package, and weigh all pork and beef, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation in their respective counties; and the said courts may appoint the said person or persons to be inspectors of pork, beef, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best: And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation and to the best of his skill and judgment, not to pass or stamp any barrel of pork or beef, or any tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or guage by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend, upon notice, at such time and place, as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any pork, beef, tar, pitch, or turpentine, imported from *Carolina*, until the same shall be brought to some public landing; and shall provide a stamp or stamps, with the first letter of his county, the letter V, for *Virginia*, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed; and on every barrel of pork, the letter L, for large, or the letter S, for small pork; and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine; for which he may demand and take, for every barrel of pork or beef by him stamped, six cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer so appointed and sworn, shall neglect his duty, or stamp any of the commodities aforesaid, contrary to this act, he shall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires; and also one dollar for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed. (a)

Inspectors, how appointed,

and qualified

Their duty,

Their fees.

Contents and quality of barrels of pork and beef.

III. EVERY barrel of pork or beef, packed within this commonwealth for sale or exportation, or imported here, shall contain at least two hundred and four pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef, that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner. And every barrel of tar, pitch, and turpentine, shall contain thirty-one gallons and a half, at the least; and after the same shall be inspected, guaged, found clean, and well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

Of tar, pitch, and turpentine.

IV. ALL beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from *Carolina*, or any other place, shall contain at least two hundred and four pounds nett meat, allowing only two and a half *per centum* for shrinkage or loss of weight. And every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall

Penalties for exposing

(a) Oct. 1776, ch. 43.

presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of less weight or guage, he or she shall forfeit and pay to the informer four dollars for every such barrel of pork or beef, and one dollar for every such barrel of tar, pitch, or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace, upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

to sale barrels of less weight or guage.

How recoverable.

V. *PROVIDED nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Judgments for, may be appealed from.

VI. EVERY seller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

Oath of seller or exporter of pork, beef, tar, pitch, or turpentine.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit; barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five-eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

Cooper's duty in setting up barrels for pork, beef, tar, pitch, and turpentine.

VIII. THE several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Fines, &c. how recoverable.

IX. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Repealing clause. Proviso.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXIX.

An Act reducing into one, the ſeveral Acts to oblige Veſſels, coming from Foreign Parts, to perform Quarantine.†

[Paſſed the 26th of December, 1792.]

I. WHEREAS it is neceſſary to compel veſſels arriving in this country from foreign parts of the world, to perform quarantine in certain caſes: *a*

How rules for performing quarantine ſhall be made and obſerved.

II. *BE it enacted by the General Aſſembly*, That veſſels, perſons, and merchandize, coming or brought into any place within this commonwealth, from any other part of the world, whence the governor, with advice of his council, ſhall judge it probable that any plague or other infectious diſeaſe may be brought, ſhall be obliged to make their quarantine in ſuch place, during ſuch time, and in ſuch manner as ſhall be directed by the governor, by his order in council, notified by proclamation, to be published in the *Virginia* gazette: And until they ſhall be diſcharged from the quarantine, no ſuch perſons or merchandize ſhall come or be brought on ſhore, or go or be put on board of any other veſſel in the commonwealth, but in ſuch manner, in ſuch caſes, and by ſuch licenſe, as ſhall be permitted by the order; and the veſſels and perſons receiving goods out of her, ſhall be ſubject to the orders concerning quarantine, and for preventing infection, which ſhall be made by the governor and council, and notified as aforeſaid.

Duty of maſters of veſſels having on board perſons infected with peſtilential diſeaſes.

III. THE maſter of a veſſel coming from ſea, on board of which there ſhall be a perſon infected with the plague or other peſtilential diſeaſe, ſhall immediately make the caſe known to ſuch perſon as ſhall be appointed for the purpoſe, in the manner as is hereinafter directed, who ſhall give intelligence thereof with all ſpeed to the governor, that meaſures may be taken for ſupport of the crew, and precautions uſed to prevent the ſpreading of the infection; and the maſter ſhall not enter into any port, but ſhall remain in ſome open road, and ſhall avoid and hinder all intercourſe with other veſſels or perſons, nor ſhall any of the paſſengers or crew go on ſhore, until the order of the governor and council ſhall be received by the maſter. Whoſoever ſhall offend againſt this act, in either or any of the afore mentioned inſtances, ſhall be amerced the ſum of fifteen hundred dollars.

Enquiries to be made when veſſels come from infected places.

IV. WHEN a place ſhall be infected with the plague or other peſtilential diſeaſe, or when the governor, with the advice of council, ſhall have notified by proclamation published in the *Virginia* gazette, that it is judged probable the plague or other peſtilential diſeaſe may be brought from any place, if a veſſel from ſuch place ſhall be coming into a port of the commonwealth, the perſon who ſhall be authoriſed to ſee quarantine performed, ſhall go off, or cauſe ſome other to go off to the veſſel, and at a convenient diſtance require the commander, to declare what is his name, at what place the cargo was taken on board, at what places the veſſel touched in her paſſage, whether any of thoſe places were infected with the plague or any other peſtilential diſeaſe, how long the veſſel had been in her paſſage, how many perſons were on board when ſhe ſet ſail, whether any on board during the voyage had been infected with the plague or other peſtilential diſeaſe, and who they are, how many died in the voyage, and of what diſtemper, what veſſels he or any of his company with his privity went on board of, and whether any of their company had been on board of his veſſel, in their voyage, and to what places thoſe veſſels belonged, and what are the contents of his lading.

Penalty on the maſters for concealing it.

V. THE maſter of a veſſel coming from a place infected with the plague or other peſtilential diſeaſe, or having any perſon on board ſo infected, who ſhall conceal it, or who ſhall not give true anſwers to the queſtions ſo to be propounded to him, ſhall be amerced the ſum of fifteen hundred dollars.

Duty of the maſter of a veſſel performing quarantine.

VI. THE maſter of a veſſel ordered to perform quarantine, when he ſhall be required, after his arrival at the place appointed, ſhall deliver to the officer authoriſed to ſee it performed there, the bills of health and manifeſts he ſhall have received during the voyage, with his log-book and journal; and refuſing or neglecting ſo to do, or to repair in convenient time after notice to the place appointed, or eſcaping from thence before quarantine performed, ſhall be amerced the ſum of fifteen hundred dollars.

Penalty for breach.

† *Amended, poſt ch.* 159. *(a) Oct.* 1783, *ch.* 19, *ſec.* 1.

VII. PERSONS ordered to perform quarantine, if they ſhall eſcape, may be compelled to return, or if they ſhall attempt to eſcape, may be detained by the perſons who ſhall be authoriſed to ſee the quarantine performed, and who may employ force, and call for the aſſiſtance of others, if it be neceſſary for this purpoſe. Perſons eſcaping, to be compelled to return to the veſſel.

VIII. ANY perſon going on board a veſſel, or into a place under quarantine, without licenſe from the ſuperintendant thereof, may be compelled to remain there, in the ſame manner as he might have been if he had been one of the crew of the veſſel. The perſon thus appointed to execute an order concerning quarantine, guilty of wilful breach or neglect of duty, ſhall be amerced the ſum of three thouſand dollars. And any perſon embeazling, or wilfully damaging goods performing quarantine under his direction, ſhall be liable to the party injured for treble the value of the damages ſuſtained thereby. The veſſel, perſons, and goods, after quarantine performed, certificate thereof, and that they are free from infection, being given by the ſuperintendant, ſhall be no further reſtrained by virtue of this act. Various penalties.

IX. A PERSON authoriſed to ſee quarantine performed, or a watchman upon any veſſel, place, or goods, under quarantine, deſerting his duty, or willingly permitting a perſon, veſſel, or goods to depart, or be conveyed away from the place where the quarantine ought to be performed, without a lawful licenſe, or a perſon empowered to give a certificate of the performance of quarantine, knowingly giving a falſe certificate, ſhall be amerced the ſum of three hundred dollars.

X. THE forfeitures inflicted by this act, ſhall be, one moiety to the uſe of the commonwealth, the other moiety to any perſon who ſhall ſue for the ſame; and ſhall be recovered by action of debt, in which action the defendant ſhall be ruled to give ſpecial bail. Forfeitures how recoverable and appropriated.

XI. THE governor, with the advice of council, ſhall be, and he is hereby authoriſed to appoint, and from time to time to fill up ſuch vacancies as may take place in each of the ports that have been, or hereafter may be appointed by the Congreſs of the United States, as ports of entry and delivery, ſome ſuitable perſon to diſcharge the duties above deſignated, and to make ſuch compenſation as in their judgment may be ſufficient to each of the ſaid perſons, for any ſervices they may occaſionally perform in the ſame. *a* Appointments of perſons to ſee quarantine performed, how to be made.

XII. THE governor in council, ſhall direct the auditor to iſſue his warrant on the treaſurer for ſuch ſums of money as may be neceſſary for the ſupport of the perſons performing quarantine, and thoſe appointed to ſee it performed, who is directed to pay the ſame out of the public money in his hands, appropriated to defray the contingent charges of government, and ſhall be repaid by the maſter or owner of the veſſel, after quarantine performed. Expenſes of performing quarantine, how to be defrayed.

XIII. ALL and every Act and Acts, clauſe and clauſes of Acts, containing any thing within the purview of this Act, ſhall be, and the ſame are hereby repealed. Repealing clauſe.

XIV. THIS Act ſhall commence in force, from and after the paſſing thereof. Commencement of this Act.

CHAP. CXXX.

An Act declaring the Puniſhment in caſe of Rape.

[Paſſed the 26th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That if any man, from and after the commencement of this act, do raviſh a woman married, maid, or other, where ſhe did not conſent before nor after; or ſhall raviſh a woman married, maid, or other, with force, although ſhe conſent after, the perſon ſo offending, ſhall be adjudged a felon, and ſhall ſuffer death as in caſe of felony, without the benefit of clergy. *b* Puniſhment in caſe of rape.

II. IF any perſon ſhall unlawfully and carnally know and abuſe any woman child under the age of ten years, every ſuch unlawful and carnal knowledge ſhall be felony, and the offender being duly convicted thereof, ſhall ſuffer as a felon, without benefit of clergy. For carnally knowing a woman child under the age of ten years.

III. ALL and every ſtatute and ſtatutes, within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal any ſuch ſtatute or ſtatutes, Repealing clauſe. Proviſo.

(a) O. T. 1783, *ch.* 19, *ſec.* 1. *(b)* *Stat.* 13, *Edw'd* 1, *ch.* 34. 18 *Eliz. ch.* 7.

for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Commencement of this Act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXXI.

An Act reducing into one, the several Acts for apprehending and securing Runaways.

[Passed the 26th of December, 1792.]

Method of taking up runaways and conveying them to prison, or to their owners.

I. BE *it enacted by the General Assembly*, That any person may apprehend a servant or slave, suspected to be a runaway, and carry him before a justice of the peace, who, if to him the servant or slave appear, by the oath of the apprehender, to be a runaway, shall give a certificate of such oath, and the distance, in his opinion, between the place where the runaway was apprehended, and that from whence he fled; and the apprehender shall thereupon convey the runaway to the last mentioned place, or deliver him to the owner, or some other authorised to receive him, or to the jailor of the county or corporation in which he was apprehended, and shall be entitled to one dollar and sixty-seven cents, and ten cents for every mile of such distance as he shall necessarily convey him, to be paid by the owner; and if such runaway be committed to the jail of any county or corporation, the keeper thereof shall forthwith cause an advertisement, with a description of the runaway's person and wearing apparel, to be set up at the door of the courthouse of his county or corporation: *Provided*, that if the owner or overseer of such runaway shall be an inhabitant of the county where such runaway is taken up, the taker up shall, in that case, convey and deliver him or her to the owner or overseer, as aforesaid, and shall not be at liberty to carry such runaway to the jail of the county or corporation, as is before directed. *a*

Reward for apprehending them.

Jailors to advertise descriptions of them.

Not to be conveyed to prison if the owner live in the county.

How to be employed when the owners do not claim them.

II. IF the owner claim not within two months thereafter, the sheriff or serjeant shall publish a like advertisement for three months in the *Virginia* gazette, and shall hire the runaway out during such time, and for such wages as his county or corporation court shall approve, having put an iron collar, stamped with the letter F. round his neck, and out of his wages pay the reward for apprehending, and the expenses incurred on his account; but he shall deliver the runaway, even before the time expire, and pay the balance of the wages received, if any, to him who shall claim, and who having proved before the court of some county or corporation, or a justice of the peace of the county or corporation, in which such runaway is confined, that he had lost such an one as was described in the advertisement, and having there given security to indemnify the sheriff or serjeant, shall produce the clerk's, or the justice's certificate, of such proof made, and security given, proved by his own or another's oath, the runaway when shewn to him, to be the same that was so lost, and pay so much as the expenses aforesaid shall exceed the wages.

Owners to prove their property.

Runaways to be sold, if not claimed within a certain time.

III. THE runaway being a slave, after the end of one year from the last advertisement, ~~shall be sold, and the proceeds of the sale, with~~ the balance of the wages, paid to the public treasurer, for the use of the owner, proving his property at any future time, or otherwise for the use of the commonwealth.

IV. IF the runaway die in jail, the expenses shall be defrayed by the public.

Where they have crossed the bay.

V. THE runaway, if he shall have crossed the bay of *Chesapeake*, shall be delivered to the sheriff of some county bounded thereby, who shall transport him to the other side, and cause him to be put into the hands of a constable, to be by constable to constable conveyed to the owner, who shall pay to the sheriff twenty dollars, and to the constable ten cents for every mile he shall necessarily travel in performing this duty.

How rewards for apprehending them may be recovered.

VI. UPON any owner's neglecting or refusing to pay the above reward, the taker-up may sue for, and recover the same with costs, either by warrant before a single justice, where the reward shall not exceed five dollars, or where the reward shall exceed that sum, by petition, or action, as the case may require, in any court of record within this commonwealth. *b*

Jailor's fees for committing, maintaining,

VII. THE keeper of every jail may demand and take for the commitment of every runaway, twenty-five cents, and the same for releasement; and for e-

(*a*) From 1785, ch. 84. (*b*) 1759, ch. 19, sec. 3.

very twenty-four hours keeping him or her in jail, ſeventeen cents, and no more; and if he, or any ſheriff, ſerjeant, or jailor, ſhall demand or take any other or greater fee than is, or ſhall be allowed by law for runaways, he or they ſo offending, ſhall for every ſuch offence, forfeit and pay four dollars to the party grieved, and ſhall alſo refund and pay back all money received over and above the legal fees; recoverable with coſts, before any juſtice of the peace of the county or corporation where ſuch offence ſhall be committed. *a* and releaſing them.

VIII. ALL and every act and acts, or parts of acts, within the purview of this act, ſhall be, and are hereby repealed. *Provided*, that all rights and remedies, given by every ſuch act or acts, and all ſuch parts of acts, ſhall be, and remain as if this act had not been made. Repealing clauſe. Proviſo.

IX. THIS act ſhall commence in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CXXXII.

An Act reducing into one, the ſeveral Acts concerning Servants.

[Paſſed the 26th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That all white perſons, not being citizens of any of the confederated ſtates of *America*, who ſhall come into this commonwealth under contract, to ſerve another in any trade or occupation, ſhall be compellable to perform ſuch contract, ſpecifically during the term thereof, or during ſo much of the ſame as ſhall not exceed ſeven years. Infants under the age of fourteen years brought in under the like contract, entered into with the conſent of their father or guardian, ſhall ſerve till their age of twenty-one years only, or for ſuch ſhorter term as the ſaid contract ſhall have fixed. *b* What ſervants ſhall ſpecifically perform their contracts.

II. THE ſaid ſervants ſhall be provided by their maſter with wholeſome and ſufficient food, cloathing and lodging; and at the end of their ſervice, if they ſhall not have contracted for any reward, other than tranſportation, food, cloathing, and lodging, ſhall receive from him, one new and complete ſuit of cloathing, ſuited to the ſeaſon of the year; to wit, a coat, waiſtcoat, pair of breeches and ſhoes, two pair of ſtockings, two ſhirts, a hat and blanket. *b* Maſter's duty to ſervants.

III. THE benefit of the ſaid contract of ſervice, ſhall be aſſignable by the maſter to any perſon to whom the ſervant ſhall in the preſence of a juſtice of the peace, freely conſent that it ſhall be aſſigned, the ſaid juſtice atteſting ſuch free conſent in writing, and ſhall alſo paſs to the executors, adminiſtrators, and legatees of the maſter. *b* Contracts for ſervice, how aſſignable.

IV. ANY ſuch ſervant, being lazy, diſorderly, guilty of miſbehaviour to his maſter, or in his maſter's family, ſhall be corrected by ſtripes, on order from a juſtice of the county, city, or corporation wherein he reſides; or refuſing to work, ſhall be compelled thereto in like manner, and moreover ſhall ſerve two days for every one he ſhall have ſo refuſed to ſerve, or ſhall otherwiſe have loſt, without ſufficient juſtification. All neceſſary expenſes incurred by any maſter for apprehending and bringing home any abſconding ſervant, ſhall be repaid by further ſervice, after ſuch rates as the court of the county, city, or corporation, ſhall direct; unleſs ſuch ſervant ſhall give ſecurity, to be approved of by the court, for repayment in money, within ſix months after he ſhall be free from ſervice, and ſhall accordingly pay the ſame. *b* How lazy and diſorderly ſervants may be puniſhed. Shall compenſate by further ſervice, for time loſt, and for expenſes of bringing them home when abſconding.

V. IF any maſter ſhall fail in the duties preſcribed by this act, or ſhall be guilty of injurious demeanor towards his ſervant, it ſhall be redreſſed on motion, by the court of the county, city, or corporation, wherein the ſervant reſides, by immediate diſcharge from ſervice, if the injury were groſs, or by a ſpecific order for a change in his demeanor, and a diſcharge from ſervice, if ſuch order be diſobeyed. *b* County courts to hear ſervants' complaints.

VI. ALL contracts between maſter and ſervant during the time of ſervice, ſhall be void. *b* Contracts between maſters and ſervants, during ſervice, void.

VII. THE court of every county, city, or borough, ſhall at all times receive the complaints of ſervants, being citizens of any one of the confederated ſtates of *America*, who reſide within the juriſdiction of ſuch court, againſt their maſters or miſtreſſes, alledging undeſerved or immoderate correction, inſufficient Proceedings on complaints of ſervants againſt maſters, and of maſters againſt ſervant.

(*a*) 1753, *ch.* 2, *ſec.* 24. 1772, *ch.* 2, *ſec.* 3. (*b*) 1785, *ch.* 83, *ſec.* 1, 2, 3, 4, 5, 6.

thousand: For all pipe staves, thirty-three cents *per* thousand: For all barrel staves, seventeen cents *per* thousand: For all shingles, six cents *per* thousand: For all plank and scantling, fifty-six cents *per* thousand: And for all ranging timber, forty-two cents *per* thousand, and no more; to be paid by the person offering the same for inspection; and the inspectors shall be continued in office during good behaviour.

Lumber not to be exported until inspected.

IV. IT shall not be lawful for any master, commander, or skipper of a vessel, to receive on board his ship or vessel, for exportation, any species of lumber enumerated in this act, without a note or certificate from some inspector of lumber, that the same has been duly inspected and passed; and the inspectors are hereby directed to give such note or certificate to the skipper of any small craft lading any such lumber, specifying when and where inspected, for whom, and the name of the ship or vessel exporting the same; and the collector or other proper officer of the customs of the district, is hereby charged and directed not to suffer any vessel to clear from his office, unless the master, commander or skipper of such vessel shall produce inspectors' notes or certificates for all lumber which he means to clear out, and shall also make oath, that he hath no lumber on board but what is particularly entered in his manifest. Any master, commander, or skipper of a vessel, who shall receive on board his vessel for exportation, any lumber herein enumerated, without first obtaining the inspector's note or certificate for the same, shall forfeit the lumber so taken on board, and sixty dollars, to be recovered by action of debt, before any court of record within this commonwealth; one half of which fine shall be to the use of the person suing for the same, the other half to the use of the commonwealth.

Vessels not to be cleared until the masters produce such certificate, and take an oath.

Penalty for exporting it without.

Repealing clause. Proviso.

V. ALL Acts or parts of Acts, coming within the purview of this Act, shall be, and are hereby repealed. *Provided always*, That nothing in this Act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements, which have accrued, been vested, or incurred, prior to the commencement of this Act.

Commencement of this Act.

VI. THIS Act shall commence in force, from and after the passing thereof.

CHAP. CXXV.

An Act providing that the Exception of Non-tenure of Parcel, shall not abate the whole Writ.

[Passed the 19th of December, 1792.]

Exception of non-tenure of parcel, not to abate the whole writ.

I. BE *it enacted and declared by the General Assembly*, That by the exception of non-tenure of parcel, of any lands or tenements, for which any action or suit shall be brought, the writ shall not be abated, but for the quantity of the non-tenure which is alledegd. *a*

Repealing clause.

II. ALL and every statute and statutes, act and acts, within the purview of this act, are, and the same shall be hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXXVI.

An Act providing a Method to help and speed Poor Persons in their Suits. †

[Passed the 24th of December, 1792.]

Poor persons may sue out original writs, &c. without paying therefor.

I. BE *it enacted by the General Assembly*, That every poor person who shall have cause of action against any person within this commonwealth shall have by the discretion of the court before whom he would sue, writ or writs original, and writs of *subpœna*, according to the nature of his cause, nothing paying for the same. *b*

The court shall assign them counsel.

II. THE said court shall direct their clerk to issue the necessary process, shall assign him counsel learned in the laws, and appoint all other officers requisite and necessary to be had for the speed of the said suit to be had and made.

(*a*) 25, *Edw.* 3, *ch.* 16. † *Act of* 1795, *pa.* 16, *sec.* 2, *directs that where a person detained in slavery shall petition the court to sue in Forma Pauperis, counsel shall be assigned him to prosecute the suit, and that before process shall issue the counsel shall make to the court a statement of facts, with his opinion, and if court shall thereupon think proper, process to be issued, and comple. may be kept in body of sheriff till the owner gives bond to have him forthcoming.* (*b*) 1786, 65.

who shall do their duties without any reward for their councils, help and business in the same.

When plaintiffs shall pay no costs.

III. ALL and every such poor person or persons, being plaintiff or plaintiffs in any such action or suit, so admitted by the court, shall not be compelled to pay any costs. *a*

Repealing clause.

IV. ALL statutes and acts, clause and clauses thereof, containing any thing within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXXVII.

An Act to reduce into one, the several Acts for regulating Pilots, and ascertaining their Fees. †

[Passed the 26th of December, 1792.]

Examiners appointed.

I. BE *it enacted by the General Assembly*, That *Paul Loyal, Edward Cooper, Charles Bayleys, James Latimer, James Cunningham, Francis Ballard, John Parish*, and *Edward Rudd*, ‡ or any three of them, be, and they are hereby appointed to examine every person that shall desire to be admitted a pilot.

II. EACH examiner before he enters on the duties of his office, shall take an oath before some court of record truly and impartially to execute the trust reposed in him. *b*

Persons applying for examination to produce certain certificates to the examiners. Fee for examination. Branches to be given to those who are qualified.

III. EVERY person applying to be examined, shall produce a certificate from the county or corporation court where he resides, of his honesty and good behaviour, satisfactory proof that he hath served as an apprentice to some branch pilot for the term of five years at the least, and that he is an inhabitant of this commonwealth; and shall moreover pay down to the examiners the sum of five dollars. And if upon examination, such person shall appear to be of sufficient skill and ability, the said examiners shall thereupon grant such person a branch, and thenceforth he shall be reputed a lawful pilot. *c*

Pilots to be arranged into three classes.

IV. ALL pilots within this commonwealth, shall be arranged into three distinct classes, and distinguished by the numbers, first class, second class, third class; in order to effect which, in each branch hereafter to be granted, the said examiners shall distinguish to what class the pilot obtaining such branch shall belong. And if there be any pilots whose branches do not distinguish to which class the pilot holding it belongs, such pilot shall, on or before the first day of *May* next, surrender such branch to the examiners, who are hereby empowered and directed to issue a new branch to such pilot, without any additional fee or charge, distinguishing therein to what class such pilot shall in future belong. And if any pilot holding such branch shall not surrender the same by the time aforesaid, he shall forfeit his branch, and shall not be capable of exercising the office of a pilot under the same. *d*

To take charge of vessels according to their classes.

V. THOSE pilots belonging to the first class shall alone have power to take the charge and pilotage of every vessel of whatsoever burthen or description. Those belonging to the second class, shall be confined to the charge and pilotage of such vessels, whose draught of water does not exceed twelve feet. And those belonging to the third class, shall be confined to the charge and pilotage of vessels, whose draught of water shall not exceed nine feet.

Removal out of the state, a disqualification.

VI. EVERY person obtaining a branch and afterwards removing into another state, shall thereupon be disqualified and incapable of acting as a pilot; and if any person so disqualified shall presume to act, he shall be liable to the same penalty for each offence, as is imposed by this act, on such as violate the terms of their branch and respective class; to be recovered in like manner.

Examiners may give to apprentices copies of their masters branches.

VII. WHEN any branch pilot shall have an apprentice that in the opinion of the examiners shall be qualified to take charge and pilot a vessel, it shall and may be lawful for the examiners to give to such apprentice or apprentices a copy of his master's branch, and endorse thereon the name of the pilot-boat and the port to which she belongs, distinguishing the ability of the apprentice by the classes as aforesaid; after which it shall not be lawful for any branch pilot to take from such apprentice any vessel he may have in charge.

(*a*) 23, *H.* 8, *ch.* 15, *sec.* 2. † *Amended Dec. sess.* 1801, *ch.* 3. ‡ *Several new examiners appointed this sess.* (*b*) 1791, *ch.* 25. (*c*) 1786, *ch.* 38. 1791, *ch.* 25. (*d*) *Ib.*

How pilots may be suspended and removed.

VIII. IN case of the misconduct or misbehaviour in any pilot in the exercise of his business, it shall be lawful for the examiners to suspend him; and if upon examination before the next succeeding county or corporation court, the court shall be of opinion that such misconduct or misbehaviour is sufficiently proved, they shall cause the same to be certified to the examiners, and the person shall thenceforth be altogether disqualified, and cease to act as a pilot.

Names of the boat and port to be painted on the foresail.

IX. EVERY pilot-boat, the owner whereof hath or shall obtain a branch in this commonwealth, shall have, ten feet below the head of his foresail, and on each side thereof the name of such boat and the port to which she belongs, painted in letters of not less than nine inches in length.

Pilots must keep sufficient boats.

X. NO person whatever shall be permitted to execute the business of a pilot, notwithstanding he may have such branch as aforesaid, unless he, or the company to which he belongs, shall keep one sufficient boat of eighteen feet keel at the least, under the penalty of one hundred and fifty dollars for every vessel such pilot shall undertake to conduct; to be recovered with costs in any court of record in this commonwealth, by the party suing for the same, to his or her own use; and if any person not having such branch, and keeping such boat as aforesaid, shall presume to take upon himself to conduct or pilot any vessel coming from sea, to or from any place or places hereafter mentioned, every such person shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered with costs in any court within this commonwealth, by the party suing for the same; and moreover such person shall be liable for all damages occasioned by his undertaking the pilotage; to be recovered by action at common law in any court within this commonwealth, by the party injured. *a*

Penalty for piloting a vessel without having a branch and boat.

Proviso as to vessels in distress.

XI. *PROVIDED*, That this act shall not be construed to extend to hinder any person or persons from assisting any vessel in distress, so as he or they shall deliver up such vessel to the pilot, who shall come on board and offer to undertake the conducting of her; for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

No more than four pilots to be in partnership.

XII. NO more than four pilots shall be in partnership, under the penalty of three hundred dollars each, to be recovered with costs by any person suing for the same.

Rules for masters of vessels and pilots.

XIII. EVERY master of a merchant vessel coming from sea, shall be obliged to receive the first pilot who offers below the *Horse-shoe*, to conduct his vessel, or shall pay him full pilotage to the first port, and shall continue the same pilot to his port of discharge; and every pilot cruizing or standing out to sea, shall offer his services first to the vessel nearest land, or in most distress; and if any pilot not being hindered by sickness, or any other lawful cause, shall refuse to go on board any vessel when required by the master, to execute his office, such pilot or pilots in either case, shall upon complaint and conviction before the examiners, or any three of them, forfeit to the party injured sixty dollars, and be liable to be suspended by them for such time as they shall think fit. Every vessel having no pilot on board, and following another that has a pilot, shall pay such pilot half fees.

Pilots losing vessels incapacitated and liable to damages.

XIV. IF any pilot shall negligently or carelessly lose any vessel under his care, and be thereof convicted by due course of law, he shall forever after such conviction, be incapable of acting as a pilot in this state, and shall be also liable to pay all such damages as any person or persons shall sustain by such negligence or carelessness, to be recovered in manner before directed.

Rates of pilotage.

XV. THE following and no greater prices shall be taken or demanded for pilotage, that is to say; On *James* river for all vessels coming from sea, from *Cape Henry*, or *Lynhaven Bay*, to *Hampton road*, six dollars and sixty-seven cents; and for going out to sea, five dollars; and for each foot depth of water they draw, from *Hampton road*, or *Sewell's point*, to *Norfolk* or *Portsmouth*, fifty cents *per* foot; to *Sleepy hole*, or *Look-out*, sixty-one cents *per* foot; to *Pagan* creek, fifty cents *per* foot; to *James*-town, one dollar and twenty one cents *per* foot; to *Martin's Brandon*, one dollar and thirty-three cents *per* foot; to *Flour-de-Hundred*, one dollar and forty-two cents *per* foot; to *City-point*, or *Bermuda Hundred*, one dollar and eighty-three cents *per* foot; to *Four-Mile* creek, two dollars and twenty-one cents *per* foot; to *Osborne's*, two dollars and fifty cents *per* foot; to *Warwick*, two dollars and eighty-one cents *per* foot; and to *Richmond*, three dollars *per* foot. On *York-river*, coming from sea, from the *Capes*,

(*a*) 1786, *ch.* 38.

or *Lynhaven-Bay*, to *York* town, ten dollars; and for going to sea, six dollars and sixty-seven cents; from *Back* river, or *Egg Island*, to *York* town, five dollars; from *York* town to *West-point*, eighty-one cents *per* foot; to *Cumberland*, one dollar *per* foot; to the highest landings on *Pamunkey* river, one dollar and twenty-five cents *per* foot; to *Shepherd's*, ninety-two cents *per* foot; to *Meredith's*, *Moore's*, or the highest lands on *Mattapony*, one dollar and nineteen cents *per* foot. From *Cape Henry* to any river on *Mockjack bay*, ten dollars; from the *Cape* to *Urbanna*, thirteen dollars and thirty-three cents; and for going from *Urbanna* to sea, ten dollars; from *Urbanna* to *Tappahannock*, eighty-three cents *per* foot; to *Nayler's hole*, eighty-one cents *per* foot; to *Leeds's* or *Micou's*, one dollar and twenty-nine cents *per* foot; to *Port Royal*, one dollar and eighty-three cents *per* foot; to *Fredericksburg*, two dollars and twenty-nine cents *per* foot; from *Cape Henry* to *Pianketank*, thirteen dollars and thirty-three cents; from *Cape Henry* to *Smith's point*, on *South Potomac*, coming from sea, twenty dollars; and for going out, sixteen dollars and sixty seven cents; from *Smith's point*, to *Coan* or *Yeocomico*, fifty cents *per* foot; to *Machadock*, fifty-eight cents *per* foot; to upper *Machadock*, eighty-one cents *per* foot; to *Nungomy*, one dollar *per* foot; to *Boyd's hole*, one dollar and eight cents *per* foot; to *Quantico*, one dollar and twenty-one cents *per* foot; to *Occoquan*, one dollar and twenty-nine cents *per* foot; to *Piscattaway*, one dollar and fifty-eight cents *per* foot; to *Alexandria*, one dollar and eighty-nine cents *per* foot; to *Eastern Branch*, two dollars *per* foot; and the same fees by the foot back again, and from the places aforesaid to the *Capes*. And where any master of a vessel shall give reasonable notice to the pilot, he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and take the sum of one dollar and sixty-seven cents for every day he shall be detained by such master's not being ready to proceed according to his notice; and if any pilot shall demand or exact any greater or other fee, he shall forfeit double the sum so demanded; recoverable before two justices, one of whom being of the quorum, with costs, by the informer.

Allowance where they are detained by the vessel's not being ready.

XVI. AND to the end that strangers may not be imposed on in the rates of pilotage as settled by this act, *Be it enacted*, That every pilot appointed in pursuance of this act, shall be obliged when he is in execution of his office, to carry with him a copy thereof, and when he receives the fees for services performed on board any vessel, he shall produce the said copy to the master of the vessel, to shew that he demands no greater fee than is allowed by this act. And if any pilot shall neglect or refuse such copy as aforesaid, he shall forfeit and pay sixty dollars to any person who shall sue for the same, to be recovered in any court within this state. *a*

Pilots to carry with them, and produce a copy of this act.

XVII. AND where any pilot has reason to believe the master of any vessel will not pay the pilotage, he may make out his account for the pilotage due him, and deliver the same to the collector or other officer of the customs, where the master of such vessel clears out; and the said collector or other officer of the customs, is hereby authorised to demand and receive the said pilotage, before the master shall be permitted to clear out his vessel. The collector or other officer of the customs, shall retain two and an half *per centum* for receiving money and paying the same to the pilot.

Officers of the customs not to permit a vessel to clear out till the pilotage is paid.

XVIII. THE public printer shall furnish the examiners, on demand, with one hundred copies of this act; one of which copies signed by three of the said examiners, shall be delivered to each pilot.

Examiners to be furnished with copies of this act.

XIX. ALL and every act and acts, clause and clauses of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Repealing clause.

XX. THIS Act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXVIII.

An Act reducing into one, the several Acts for regulating the Inspection of Pork, Beef, Tar, Pitch, and Turpentine.

[Passed the 26th of December, 1792.]

Preamble.

I. WHEREAS experience has shewn, that the establishment of proper regulations for the inspection of pork, beef, tar, pitch, and turpentine, have contributed to the sale and export of those articles: *b*

(a) 1786, *ch.* 38. *(b)* 1762, *ch.* 3.

II. *BE it therefore enacted by the General Assembly*, That no pork or beef shall be exported out of this commonwealth, or tar, pitch, or turpentine exposed to sale or exported, until the same shall be packed or filled in barrels, under the regulations herein after expressed; and the justices of every county court within this commonwealth, are hereby authorised and required, whenever application shall be made to any court for that purpose, and in the months of *August* and *September*, annually, to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons, residing in the same county, to inspect the package, and weigh all pork and beef, and also to inspect the filling of all tar, pitch, and turpentine, packed or filled for sale or exportation in their respective counties; and the said courts may appoint the said person or persons to be inspectors of pork, beef, tar, pitch, and turpentine, if such person appears to them to be duly qualified, or may appoint several inspectors, as in their discretion shall seem best: And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect and examine, when required, all pork, beef, tar, pitch, and turpentine, packed or filled for sale or exportation, and to the best of his skill and judgment, not to pass or stamp any barrel of pork or beef or any tar, pitch, or turpentine, that is not good, clean, sound, merchantable, and of the weight or guage by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend, upon notice, at such time and place, as the owner of any of the said commodities shall appoint, to inspect the same within his county, but shall not inspect or stamp any pork, beef, tar, pitch, or turpentine, imported from *Carolina*, until the same shall be brought to some public landing; and shall provide a stamp or stamps, with the first letter of his county, the letter V, for *Virginia*, the first letter of his own christian name, and his whole surname at length, to be stamped on each barrel or cask by him passed; and on every barrel of pork, the letter L, for large, or the letter S, for small pork; and on the head of every barrel of tar, pitch, or turpentine, shall distinguish whether the same be tar, pitch, or turpentine; for which he may demand and take, for every barrel of pork or beef by him stamped, six cents; for every barrel of tar, pitch, or turpentine, four cents, and no more; to be paid down by the owner. And if any officer so appointed and sworn, shall neglect his duty, or stamp any of the commodities aforesaid, contrary to this act, he shall forfeit and pay four dollars for every barrel of pork or beef, and one dollar for every barrel of tar, pitch, or turpentine, which shall be found not duly qualified, or of less weight or contents than this act requires; and also one dollar for every neglect of his duty; recoverable by the informer, with costs, before a justice of the peace of the county where such offence shall be committed. *a*

Inspectors, how appointed,

and qualified.

Their duty.

Their fees.

Contents and quality of barrels of pork and beef.

III. EVERY barrel of pork or beef, packed within this commonwealth for sale or exportation, or imported here, shall contain at least two hundred and four pounds nett, of good, clean, fat, sound, merchantable meat, well salted between each layer, well pickled, nailed and pegged, and no more than two heads of pork in one barrel; and no inspector shall pass or stamp any barrel of pork or beef, that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, weighed, found merchantable, and passed by the inspector or inspectors, residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and certificate thereof given to the owner.

Of tar, pitch, and turpentine.

And every barrel of tar, pitch, and turpentine, shall contain thirty-one gallons and a half, at the least; and after the same shall be inspected, guaged, found clean, and well and truly made merchantable, and passed by the inspector or inspectors of the county where the same shall be inspected, shall be by him or them stamped or branded, and a certificate thereof given to the owners as aforesaid.

IV. ALL beef or pork exposed to sale or barter within this commonwealth in barrels, whether the same be packed here or imported from *Carolina*, or any other place, shall contain at least two hundred and four pounds nett meat, allowing only two and a half *per centum* for shrinkage or loss of weight. And every barrel of tar, pitch, or turpentine, exposed to sale or barter, whether made here or imported from any other place, shall contain at least thirty-one gallons and a half, and be stamped as this act directs; and if any person shall

Penalties for exposing

(a) Oct. 1776, ch. 43.

presume to sell, or expose to sale or barter, any barrel of pork, beef, tar, pitch, or turpentine, of less weight or guage, he or she shall forfeit and pay to the informer four dollars for every such barrel of pork or beef, and one dollar for every such barrel of tar, pitch, or turpentine, sold or exposed to sale or barter in this commonwealth; recoverable with costs by the informer, before any justice of the county where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace, upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon, any law to the contrary thereof notwithstanding.

to sale barrels of less weight or guage.

How recoverable.

V. *PROVIDED nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond, with sufficient security, before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment, and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same, together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Judgments for, may be appealed from.

VI. EVERY seller or exporter of beef, pork, tar, pitch, or turpentine, packed or filled in this commonwealth, and stamped or branded, shall make oath before a justice of peace, at the time of the delivery of the goods sold or exported, that the several barrels by him then sold or exported, are the same that were inspected and passed, and do contain the full quantity, without embezzlement or alteration, to his knowledge; and every person taking a false oath, and being lawfully convicted thereof, shall suffer the pains and penalties inflicted on persons guilty of wilful and corrupt perjury; and moreover shall forfeit and pay the sum of one hundred and fifty dollars; to be recovered by any person or persons that will sue for the same, to his or their own use.

Oath of seller or exporter of pork beef, tar, pitch, or turpentine.

VII. EVERY cooper, and the master or owner of every servant or slave, who shall set up barrels for pork, beef, tar, pitch, or turpentine, shall make the same in the following manner, to wit; barrels for pork and beef, shall be made with good, strong, well seasoned white oak timber, clear of sap, and not less than five-eighths of an inch thick, tight and well hooped, with twelve hoops at least; and in the barrels for turpentine, there shall be no sap pine timber, and they shall be hooped two-thirds of their length: Every barrel for pork or beef, to contain from twenty-nine to thirty-one gallons each; and every barrel for tar, pitch, or turpentine, thirty-one gallons and a half at least, with his name, or the name of the master of the servant or slave, at length, stamped or branded upon every barrel, under the penalty of forty-two cents for every barrel set up for sale or exportation, and not so stamped or branded, of less contents than aforesaid.

Cooper's duty in setting up barrels for pork, beef, tar, pitch, and turpentine.

VIII. THE several fines and forfeitures imposed by this act, (except such as are otherwise recoverable) shall and may be recovered to the use of the informer, where the same shall not exceed five dollars, before any justice of the peace; and for any sum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all sums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with costs of suit.

Fines, &c. how recoverable.

IX. ALL acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties, or amercements which have accrued, been vested, or incurred prior to the commencement of this act.

Repealing clause. Proviso.

X. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

warehouſe; in the county of *Loudoun*, at the *Great Falls* of the *Patowmac*, to be called and known by the name of the *Great Falls* warehouſe; in the county of *Cumberland*, on the lands of *John Woodſon*, at *Carter's* ferry, to be called and known by the name of *Woodſon's* warehouſe; in the county of *Norfolk*, on the lands of *Thomas Veal*, in the town of *Portſmouth*, to be called and known by the name of *Portſmouth* warehouſe; in the county of *Fairfax*, on the lands of *William Thornton Alexander*, in the town of *Alexandria*, to be called and known by the name of *Thornton's*; in the county of *Amherſt*, on the lands of *John Lynch*, at his ferry, to be called and known by the name of *Amherſt* warehouſe; in the county of *Halifax* on the lands of *Richard Baxter*, at *Baxter's* ferry, on the *Staunton* river, to be called and known by the name of *Baxter's* warehouſe; in the county of *Buckingham*, on the lands of *John Hartley*, at the mouth of *Bent* creek, to be called and known by the name of *Hartley's* warehouſe.

Rents of warehouſes.

III. THE rents of the ſeveral warehouſes hereby eſtabliſhed, ſhall be and they are hereby eſtabliſhed at the following rates: At *Pitt's* and *Guilford's*, thirty-three dollars and thirty-three cents; at *Pungateague*, twenty-ſix dollars and ſixty-ſeven cents; at *Cherrystones* and *Nanſwaddox*, twenty-ſix dollars, and ſixty-ſeven cents; at *Hampton*, thirty-three dollars and thirty-three cents; at the *College Landing*, thirty-three dollars and thirty-three cents; and at all the other warehouſes, there ſhall be allowed and paid for the rents for the ſame, twenty-five cents for every hogſhead of tobacco that already has been or ſhall be received, inſpected and delivered out of ſuch warehouſes reſpectively, except as herein after excepted. And there ſhall be paid to the proprietors of each warehouſe, for all tobacco lying therein, more than twelve months, at the rate of five cents *per* month for each hogſhead, to be paid by the ſhipper thereof, at the time of ſhipping the ſame.

Proprietors of warehouſes to let them to the inſpectors.

IV. WHERE the warehouſes are already built at any of the places herein before mentioned, and appointed for keeping the ſame, and are now made uſe of for public warehouſes, the proprietors and owners of ſuch warehouſes ſhall be, and they are hereby obliged to let the ſame to the inſpectors during the continuance of this act, at the rent hereby eſtabliſhed for ſuch warehouſes reſpectively, and if any proprietor or owner ſhall refuſe ſo to do, he ſhall forfeit and pay fifteen hundred dollars; and where warehouſes are not already built at any of the places aforeſaid, or where any new warehouſes ſhall be hereafter appointed to be kept at any other place, it ſhall be lawful for the juſtices of the court of that county wherein ſuch place is, or ſhall be, and they are hereby required, at the next court to be held for their county after ſuch new warehouſe ſhall be ſo appointed, to order and direct ſo many ſtrong, cloſe, and ſubſtantial houſes, ſecured with ſtrong doors, hung on iron hinges, and with ſtrong locks or bolts, as will contain ſufficient room for two thirds of the number of hogſheads, which in their opinion will be annually brought to the ſame, and one brick ſquare or funnel ſix feet high at leaſt, and four feet diameter, with a proper arch at the bottom of the ſame, for burning tobacco refuſed and picked, at ſuch warehouſes, and ſuch other conveniences as ſhall be neceſſary; and ſhall cauſe the owner or proprietor of the land where ſuch warehouſes are appointed to be kept, and if ſuch owner or proprietor be under age, *feme covert*, or out of the country, then the guardian, huſband, or known attorney, or agent, (as the caſe may be) of ſuch owner or proprietor, to be ſummoned to appear before them at the next ſucceeding county court after ſuch ſummons ſhall iſſue, there to declare whether they will undertake to erect and build ſuch houſes, funnel, and other conveniences, and let the ſame to the inſpectors appointed to attend at ſuch warehouſes at the rent ſettled by this act, or which ſhall be hereafter ſettled for the ſame; and in caſe ſuch owner, guardian, huſband, known attorney, or agent, will undertake the ſame, then the ſaid court ſhall, and they are hereby required, to take bond with ſufficient ſecurity, in a reaſonable penalty, payable to the governor and his ſucceſſors, to the uſe of the commonwealth, with condition for the due performance of ſuch undertaking. And if ſuch owner, guardian, huſband, known attorney, or agent, ſhall refuſe to undertake the ſame, or give ſuch bond as aforeſaid, then it ſhall be lawful for the ſaid juſtices, and they are hereby required, to value an acre of the ſaid land, and to pay or tender to the proprietor, his or her guardian, huſband, known attorney, or agent, the value thereof, which ſhall be repaid to the ſaid juſtices by the public, and from thence forth the juſtices of the county for the time being, ſhall be ſeized in fee of the ſaid land in truſt, and for the uſe of the public, during the time the ſaid place ſhall be made uſe of for a public warehouſe; and the ſaid juſtices ſhall agree with ſome perſon or perſons to erect and build thereon, ſuch houſes, funnels, and c-

County courts to direct the number and kind of new warehouſes.

And take bond with ſecurity of the proprietor if he chooſes to build & let them.

If he refuſes, the land to be paid for and the warehouſes to be built at the expenſe of the public, and the rents to be paid to the treaſurer.

ther conveniences as is herein before directed, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby directed and required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive of the inspectors the rent established at such warehouses for reimbursing the public the charge of such buildings, until the same shall be repaid with lawful interest. And where the justices of any county court, or any other person or persons, have already built warehouses on lands of another person by virtue of, or in pursuance of the laws lately or now in force, the said justices, or other person or persons, shall in like manner be seized in fee of the acre of land upon which such warehouses are built, so long as the said places respectively shall be made use of for public warehouses; but if any of the warehouses which are or shall be built by the public, the justices, or other persons, shall hereafter be discontinued, the proprietor of the land returning the price paid for the same, with lawful interest, shall be thenceforth seized of his former estate.

Where warehouses are discontinued, the land to revert to the former proprietor, he returning the price, &c.

V. THE inspectors at the several warehouses shall, at the court to be held for their respective counties in the month of *September* yearly, or at the next succeeding court, produce and render into court an exact account under their hands, of the number of hogsheads of tobacco inspected at their respective warehouses the preceding year, and of the condition of the warehouses under their charge, and the quantity of tobacco they are capable of containing, and thereupon such court, if they shall not be satisfied that the warehouses already built, at any of the said inspections, are properly secured, and contain sufficient room for two-thirds of the number of hogsheads mentioned in such account, to be conveniently stored, shall enter an order that the owner or proprietor of such warehouses, shall within such reasonable time as the said court shall think fit to allow, repair and make close the warehouses already built, and secure the same with strong doors hung on iron hinges, and with strong locks or bolts; and that such owner or proprietor shall also, before the first day of *April*, in the ensuing year, erect, build, and completely finish, such and so many other strong, close, and substantial houses, as with the other houses already built, shall be sufficient, in the opinion of such court, conveniently to contain two-thirds of the quantity of tobacco mentioned in such inspector's account, and secure the same in manner herein before directed; a copy of which order shall be served on such owner or proprietor, or his or her guardian, husband, attorney, or agent, (as the case may be) and if such owner or proprietor, his or her guardian, husband, attorney, or agent, shall fail to appear at the next succeeding court, after such notice, and enter into bond with sufficient security in a reasonable penalty, payable to the governor, for the time being, and his successors, with a condition for the due performance of the same, then it shall be lawful for the said court, and they are hereby required, to cause such repairs and houses to be made and built as aforesaid, and shall certify the charge thereof to the treasurer of this state for the time being, who is hereby required to pay the same out of the public money in his hands arising from the inspection of tobacco, and shall take and receive from the inspectors the whole or a proportion of the rents established at such warehouses, for reimbursing the public the charge of such buildings and repairs, with interest thereon, which proportion shall be settled by the court, and by them certified to the treasurer.

Inspectors annually to lay before the court an account of tobacco inspected, and condition of the houses.

Court may order houses to be repaired or secured, and new houses built if necessary, by the proprietor or public.

VI. IF any county court shall fail or refuse to do their duty in directing such houses, funnels, and other necessary conveniences, at the places established by this act for erecting new warehouses, or such additional buildings and repairs at the places where houses are already built, and causing the same to be built or made according to the directions of this act, every justice so failing or refusing, shall forfeit and pay one hundred dollars, to be recovered in the district court, with costs, by action of debt, or information, against the justices jointly.

Penalty on county courts for neglect.

VII. *PROVIDED always*, That nothing herein contained, shall be construed to give power to the said justices to take away the houses, orchards, or other immediate conveniences of any proprietors of lands, for the purposes aforesaid, nor to the said inspectors to keep any horses, cattle, or hogs, at any public warehouses, except their riding horses, upon the land appointed for such warehouses; and if any swine belonging to the said inspectors, or any of them, shall be found at large upon the land appropriated for such warehouses, or the lands adjoining thereto, it shall be lawful for the proprietors of the said lands, to kill, or cause to be killed or destroyed, all such swine.

Houses and other conveniences, not to be taken from proprietors.

Inspectors not to keep any horses, cattle, or hogs on the land.

How proprietor may be reſtored to his former eſtate.

VIII. *PROVIDED alſo*, That where any houſes have been, or ſhall be built by the juſtices or other perſons, as aforeſaid, and the firſt proprietor of the land ſhall deſire to have the ſame again, ſuch proprietor, upon payment of ſo much money as ſhall be ſufficient to reimburſe the ſaid juſtices, or other perſon, the principal money expended for the purchaſe of the land and the building ſuch warehouſes, with lawful intereſt, deducting the rents received by the ſaid juſtices or other perſon, ſhall be reſtored to his former eſtate in the land whereon ſuch warehouſes are built, and ſhall receive the rents aforeſaid growing due for ſuch warehouſes: *Provided alſo*, That if any proprietor ſo as aforeſaid reſtored to his eſtate, ſhall neglect or refuſe to build and repair ſuch houſes, as the court ſhall think neceſſary, the juſtices ſhall again be ſeized of the fee ſimple eſtate in ſuch land during the time ſuch place ſhall be made uſe of for a public warehouſe, and ſuch proprietor ſhall not have any benefit of the rents that ſhall hereafter become due.

But if he again fails to build or repair to be reveſted in the public.

Waſte or deſtruction of warehouſes, how to be puniſhed.

IX. ON complaint being made by the owner or owners of any of the warehouſes aforeſaid, to any juſtice of the peace in the county where ſuch warehouſe ſhall lie, againſt any perſon or perſons, for breaking, tearing, or committing any waſte or deſtruction of, or in ſuch warehouſe or warehouſes, it ſhall be lawful for ſuch juſtice, and he is hereby empowered and required to give judgment and award execution againſt the body or eſtate of ſuch offender, if found guilty, for all damages occaſioned by ſuch breaking, tearing, or waſte, or deſtruction, provided ſuch damages do not exceed the ſum of five dollars in his opinion; and if ſuch damages ſhall exceed that ſum, then it ſhall be lawful for ſuch owner or owners to commence and proſecute his or their action at law, againſt any ſuch offender, in any court of record within this ſtate, in which the plaintiff ſhall recover coſts, although the damage ſhall be under ſeven dollars.

Scales and weights to be provided.

X. THERE ſhall be kept at every one of the ſaid warehouſes herein before appointed, and at all others hereafter to be appointed, a good and ſufficient pair of ſcales with weights to weigh fifteen hundred pounds at the leaſt, and a ſet of ſmall weights, the ſame that are or ought to be provided for the ſtandard weights of each county; and where ſuch ſcales and weights are not already provided, or now are or ſhall hereafter be worn out, or become unfit for uſe, the juſtices of the reſpective county courts wherein any of the ſaid warehouſes are or ſhall be, are hereby directed and required to provide the ſame, with all convenient ſpeed; and the treaſurer for the time being is hereby empowered and required to pay the purchaſe money out of the public money in his hands ariſing from the inſpection of tobacco, and moreover the ſaid juſtices are hereby required and directed, twice in every year at leaſt, to appoint one or more of their number to view the ſaid ſcales, and examine and try the weights at the ſeveral warehouſes by the ſtandard weights of the county; and if the ſaid ſcales and weights ſhall want repairing, or the weights be found deficient, or differing from the lawful ſtandard, the ſaid juſtices ſhall cauſe the ſame to be repaired and mended, and the weights made conformable to the ſtandard; and if the juſtice or juſtices ſo appointed, ſhall refuſe or neglect to do the ſame, the juſtice or juſtices ſo refuſing, ſhall forfeit and pay the ſum of one hundred and fifty dollars; and the charge of repairing and mending the ſaid ſcales and weights, and alſo for removing the ſtandard to the ſeveral warehouſes for trying the ſame, ſhall be paid by the inſpectors reſpectively, and be again allowed to them in their accounts with the treaſurer.

And tried and repaired twice a year.

Tobacco to be viewed by the inſpectors.

XI. ALL tobacco which ſhall be brought to any of the public warehouſes ſhall be viewed, inſpected and examined by two perſons to be thereunto appointed, who ſhall be called inſpectors, which ſaid inſpectors ſhall be appointed in the following manner, that is to ſay: The courts of the ſeveral counties within this ſtate, wherein any of the public warehouſes appointed by this act are eſtabliſhed, ſhall, and they are hereby required, once in every year and no oftener, at their reſpective county courts held in the months of *Auguſt* or *September*, to nominate and recommend to the governor for the time being, for ſo many offices of inſpection as are or ſhall be in their reſpective counties, four fit and able perſons reputed to be ſkilful in tobacco, for the execution of the office of inſpectors; and where two warehouſes under one and the ſame inſpection happen to lie in different counties, in that caſe the court of each county ſhall nominate and recommend two for ſuch inſpection, which nomination the ſaid courts ſhall cauſe to be entered upon record, and the clerks of the ſaid courts ſhall, and they are hereby required forthwith to tranſmit a certificate of the ſame to the clerk of the council; and out of the ſaid four perſons nomi-

Manner of appointing inſpectors.

nated and recommended for each inspection, the governor, with advice and consent of council, shall choose and appoint two to execute the office of inspectors at such inspection; and in default of such nomination or recommendation by the county courts as aforesaid, the governor, with the like advice and consent, shall appoint such persons as he shall think fit to be inspectors at such inspection, for which no nomination or recommendation shall be made as aforesaid, and also in case of the death, resignation, or removal of any inspector, the governor shall, and may appoint any person named in the last recommendation from the county court, for that inspection where the vacancy shall happen, to succeed him until the next nomination and appointment of inspectors; but if either of the persons named in such last recommendation, will not accept the said office, in that case, the governor, with the advice and consent of the council, may appoint any other person they shall think fit; and besides the two inspectors appointed as aforesaid, the governor, for the time being, with the advice of the council, shall appoint one of the persons recommended with such inspectors, to be additional inspector at the warehouse for which he shall be recommended; which additional inspector shall officiate as such, only in cases of disagreement in opinion of the other inspectors as to the quality of tobacco brought to their inspection, or where either of them shall through sickness or otherwise be absent from his duty, or shall bring his own tobacco to the warehouse whereof he is inspector, to be viewed; and the said additional inspector shall be paid for the services he shall perform, by occasion of the absence of either of the other inspectors, out of the salary of such absentee, in proportion to the time he shall officiate.

Additional inspectors to be appointed. When to act.

XII. IF any inspector shall hereafter accept, receive or take, directly or indirectly, any fee, gratuity, service or reward whatsoever, of any person for resigning or giving up his office of inspector, he shall not only be forever disabled from holding the like office, but for such offence shall forfeit and pay the sum of six hundred dollars, to be recovered with costs, by action of debt, in any court of record within this state, by any person suing for the same; and every person offering or paying directly or indirectly, any fee, service, gratuity, or reward whatsoever, to any inspector to resign his said office, shall for the said offence be forever disabled from holding the office of inspector within this state.

No inspector to take a reward for resigning.

Penalty on giver and receiver.

XIII. *PROVIDED always*, That no justice of the peace recommended to be an inspector, shall be allowed to vote in nomination and recommendation of persons to be inspectors as aforesaid, and where any person once recommended as aforesaid, and executing the office of inspector in pursuance of such recommendation, shall be again recommended the succeeding year, the same shall be a sufficient appointment to him to continue in the said office for another year, without any new commission, and so from year to year, so long as he shall be so recommended as aforesaid. *Provided nevertheless*, that each inspector shall annually renew his bond, and give security for the faithful discharge of his duty.

No justice of the peace recommended as an inspector, to vote in recommendation.

Inspector in office, recommended, to continue without new commission, but shall annually renew his bond for the due discharge of his duty.

XIV. EVERY person appointed, or to be appointed inspector by virtue of this act, shall before he enters upon the execution of the said office, enter into bond with good security in the penalty of four thousand dollars, payable to the governor for the time being, and his successors, with condition for the true and faithful performance of his duty, according to the directions of this act, which bond shall be recorded in the county, and transmitted by the clerk of the court to the treasurer, under the penalty of three hundred dollars, who shall move for judgment against every inspector failing to discharge the same within two months after failure, under the penalty of three hundred dollars; and every such inspector shall also take the following oath, at the time he gives bond, that is to say:

Inspectors to give bond with security and take an oath.

YOU shall swear that you will diligently and carefully view and examine all tobacco brought to the public warehouse or warehouses where you are appointed inspector, and that not separately and apart from your fellow, but in his presence; and that you will not receive or pass any tobacco that is not in your judgment, sound, well conditioned, merchantable, and clear of trash, nor receive, pass or stamp, any tobacco hogsheads or casks of tobacco contrary to the true intent and meaning of this act, nor refuse any tobacco that in your judgment is sound, well conditioned, merchantable, and clear of trash, and that you will not change, alter, or give out any tobacco, other than such hogsheads or casks, for which the receipt to be taken,

The oath.

was given, but that you will in all things well and faithfully discharge your duty in the office of inspector, according to the best of your skill and judgment, and according to the directions of this act, without fear, favor, affection, malice, or partiality. So help you GOD.

Which oath shall be taken before the governor of this state for the time being, before the district court, or in the court of the county wherein such inspector shall reside, or the warehouses at which he shall be appointed inspector shall stand; but before any inspector shall enter upon the execution of his office, he shall produce a certificate, if sworn before the governor or district court, (as the case may be) of his having taken such oath, which certificate shall be lodged with the clerk of the county where such inspector shall be; and if any person shall presume to execute the office of inspector before he shall have given such bond, and taken such oath as aforesaid, he shall forfeit and pay two thousand dollars.

Penalty for acting without qualifying.

Time inspectors are to attend.

XV. ALL inspectors to be appointed by virtue of this act, shall constantly attend their duty at the warehouse or warehouses under their charge, from the first day of *October*, to the tenth day of *August*, yearly, except *Sundays*, and the holy days observed at *Christmas*, *Easter*, and *Whitsuntide*, or when hindered by sickness; and afterwards they or one of them shall constantly attend at the same, except on *Sundays*, to deliver out tobacco for exportation, until all the tobacco remaining there the said tenth day of *August* shall be delivered: But no inspector shall be obliged to view any tobacco between the said tenth day of *August*, and the first day of *October*, except such as remained in the warehouse on the said tenth day of *August*; and every inspector neglecting to attend as aforesaid, shall forfeit and pay to the party grieved, one dollar for every neglect, or shall be liable to an action upon the case, at the suit of the party grieved, to recover all such damages as he or they shall have sustained by occasion of any such neglect, together with his or their full costs, at the election of such party.

Penalty for not attending.

Tobacco to be entered as brought in and viewed in due turn.

XVI. AND that all persons having tobacco at the public warehouses, may have equal justice, the inspectors shall enter in a book to be kept for that purpose, the marks and owners' names of all tobacco brought to their respective warehouses for inspection as the same shall be brought in, and shall view and inspect the same in due turn as it shall be entered in such book, without favor or partiality; and shall uncase and break every hogshead or cask of tobacco brought them to be inspected as aforesaid; and if they shall agree that the same is good, sound, well conditioned, merchantable, and clear of trash, then such tobacco shall be weighed in scales with weights of the lawful standard, and the hogshead or cask shall be stamped in the presence of the said inspectors, or one of them, with the name of the warehouse at which inspected, and also the tare of the hogshead or cask, and quantity of nett tobacco therein contained; and the inspectors at such warehouses shall issue a receipt for each hogshead of tobacco they shall pass, if required by the owner; which receipt shall be in the form following, to wit:

Each hogshead to be uncased and viewed, & if found good, stamped, and receipt given.

Form of the receipt for crop tobacco.

River, Warehouse

Received of , hogsheads of crop tobacco, marks, numbers, weights, & species as per margin; to be delivered by us to the said , or his order, for exportation, when demanded. Witness our hands.

the day of 17 ,

Sweet scented.		Oronoko.
Leaf.	Stemmed.	Leaf.

Marks. No. Gross. Tare. Nett. Gross. Tare. Nett. Gross. Tare. Nett.

Which is to be printed,

And no inspector or inspectors, shall under any pretence whatsoever, issue a receipt for any tobacco other than such as shall be printed, in which the date shall be inserted at full length. And if any inspector or inspectors, shall presume to issue a receipt in any other manner than is hereby expressed, he or they, for every such offence, shall forfeit and pay the sum of three hundred dollars: to be recovered with costs, by any person who may sue for the same, in any court of record within this state: Which receipts as aforesaid, shall be furnished by the public printer, and at the public expense: But if the said two inspectors shall at any time disagree concerning the quality of any tobacco

Where the inspectors disagree concerning the

brought for their inſpection to any warehouſe under their charge, they ſhall as ſoon as conveniently may be, call in the additional inſpector appointed to attend ſuch warehouſe, who ſhall determine and paſs or reject ſuch tobacco; and if he ſhall paſs the ſame, his name ſhall be entered in a book kept by the inſpectors, oppoſite the mark, number and weight of the hogſhead by him paſſed, together with the name of the inſpector at ſuch warehouſe who ſhall officiate with him. And the inſpectors at each of the warehouſes eſtabliſhed by this act, ſhall conſtantly keep ſo many able hands at their reſpective warehouſes as the courts of the ſeveral counties wherein they lie, ſhall from time to time judge neceſſary, and direct, for the purpoſe of taking care of all tobacco brought to ſuch warehouſe, and ſtowing it away after the ſame ſhall be inſpected and ſtamped. And no inſpector ſhall by himſelf, his ſervant, or any other perſon, either directly or indirectly, be concerned in picking any refuſed tobacco, unleſs it be his own property, on any pretence whatſoever, under the penalty of being forever thereafter diſabled from holding the office of inſpector.

quality of tobacco.

What hands the inſpectors ſhall keep.

Inſpectors or their ſervants not to be concerned in picking tobacco.

XVII. WHEN any tobacco ſhall be refuſed by the inſpectors, the proprietor thereof ſhall be at liberty to ſeparate the good from the bad, but if he refuſes or neglects ſo to do within two months of ſuch refuſal, the inſpectors ſhall direct one or more of the pickers attending the warehouſe, to pick and ſeparate ſuch refuſed tobacco, and give the owner credit for ſo much thereof as ſnall be found merchantable, after paying the pickers one twelfth part of the quantity ſaved; and the inſpectors ſhall cauſe the tobacco which ſhall by them be judged unfit to paſs, to be burned in the brick funnel, erected, or to be erected at ſuch warehouſe, under the penalty of ſeven dollars for every failure, to the informer; recoverable with coſts, before any juſtice of the county wherein ſuch warehouſe ſhall be. *Provided always*, That any picker refuſing to pick and ſeparate refuſed tobacco, when directed by an inſpector, ſhall forfeit and pay five dollars, to the uſe of the owner of ſuch tobacco; recoverable with coſts, before any juſtice of the county or corporation.

Owner may pick refuſed tobacco, but if he refuſes, the pickers ſhall do it.

Penalty on picker refuſing to pick tobacco.

XVIII. THE courts of the ſeveral counties wherein any of the public warehouſes appointed by this act are eſtabliſhed, ſhall, and they are hereby required to nominate and appoint from time to time, ſuch and ſo many perſons as to them ſhall ſeem neceſſary, who are willing to undertake the ſame, to attend the ſeveral warehouſes within this ſtate, to turn up, ſort, ſeparate and pick ſuch tobacco as ſhall be refuſed by the inſpectors. And every perſon ſo appointed a picker, ſhall make oath before the court at the time of his appointment, or at the next ſucceeding court, that he will carefully and diligently, without fraud or embezzlement, ſort and ſeparate all ſuch tobacco, as ſhall be refuſed by the inſpectors, and the owner or proprietor thereof, or the inſpectors, ſhall employ him to pick; and every picker of tobacco ſhall be allowed to demand and receive from the reſpective proprietors, twenty-one cents per hogſhead for opening, and one twelfth part of all the tobacco ſaved out of any refuſed hogſhead by him picked, for his ſervices in opening, ſorting, and picking the ſame, and no more. And no picker of tobacco ſhall keep or employ any negro or mulatto ſlave at any public warehouſe, on any pretence whatever; nor ſhall any picker preſume to hinder any perſon who may chooſe to open their own tobacco, or to pick what may be refuſed by the inſpectors, from the free uſe of the picking-houſe and prize, for the conveniency of picking or prizing the ſame. And if any picker ſhall miſbehave himſelf in his ſaid office, it ſhall and may be lawful for the court of the county where ſuch picker ſhall be appointed, on complaint and motion to them made, to remove ſuch picker from his ſaid office, and to appoint another perſon to act in his room, if to them it ſhall ſeem neceſſary; and every picker ſo removed, ſhall for ever after be rendered incapable of ſerving as picker at any public warehouſe; *Provided* ſuch picker hath ten days previous notice of ſuch motion; and any perſon who ſhall be aggrieved by any ſuch miſbehaviour in a picker, may make complaint thereof to any juſtice of the peace, who is hereby empowered and directed to take depoſitions therein, provided ſuch picker have notice thereof, and to tranſmit the ſame to the next court to be held for the county, where the offence ſhall be committed, to be there given in evidence on the examination into ſuch miſbehaviour. And if any perſon not being appointed and ſworn as aforeſaid, ſhall preſume to undertake the opening, ſorting, picking, or ſeparating any ſuch tobacco for hire or reward, every perſon ſo offending ſhall forfeit and pay four dollars for every ſuch offence; to be recovered by the informer, to his own uſe, before any juſtice of the peace. *Provided*, That any proprietor of tobacco, who may chooſe to open, pick and prize his own tobacco, may employ his own ſervants

Pickers how to be appointed.

Their oath.

Allowance.

Duty.

How puniſhed for miſbehaviour.

Penalty for picking without being ſo appointed, except by the proprietor, his hands or others.

or ſlaves, or any other perſon or perſons, other than the hands kept by the inſpectors, to aſſiſt him in opening, picking, or prizing the ſame, and the perſon or perſons ſo employed, ſhall not incur or be ſubject to the laſt mentioned, or any other penalty or forfeiture for ſo doing; and the inſpectors ſhall iſſue receipts for all tobacco ſaved by picking, to the proprietors only of ſuch tobacco, and not to the pickers of the ſame. And the inſpectors ſhall not ſuffer or permit any picker to prize up any tobacco that he ſhall have ſaved by picking, for his own uſe. And if any tobacco picked in any hogſhead or caſk by an overſeer, or the hands under his care, ſhall be burnt by the inſpectors, by reaſon of its being bad, unſound, or not in good condition, the overſeer, who had the care of making and packing the ſame, ſhall be at the loſs of the tobacco ſo burnt, and make ſatisfaction for the ſame out of his ſhare of the crop, or otherwiſe; and the inſpectors ſhall be obliged to keep an account of all tobacco ſo burnt.

Pickers not to prize up their tobacco ſaved by picking.

Overſeers liable for tobacco refuſed & burnt.

XIX. IF any inſpector of tobacco ſhall in any manner be concerned as a partner with, or receive from any picker of tobacco, money or any gratuity, every inſpector herein offending, on conviction, before any court of record, ſhall forfeit and pay two thouſand dollars to the proſecutor, to be recovered by action of debt with coſts; and ſhall moreover be rendered incapable of ſerving as an inſpector. Every picker who ſhall be concerned as above with an inſpector, or who ſhall demand, take or receive any greater fee or reward for his ſervices, other than by law allowed, ſhall forfeit and pay, on conviction, to the perſon proſecuting, three hundred dollars, to be recovered in like manner, and ſhall for ever after be incapable of acting in any character at a public warehouſe.

Penalty on inſpector for being concerned with a picker as a partner or receiving any thing from him.

On a picker for the ſame, or for receiving more than the legal fee.

XX. WHERE any tobacco ſhall be brought to any of the ſaid warehouſes for the diſcharge of any public or private debt or contract, the ſaid inſpectors, or one of them, after they have viewed, examined and weighed the ſaid tobacco, according to the directions of this act, ſhall be obliged to deliver to the perſon bringing the ſame, as many receipts under the hands of the ſaid inſpectors as ſhall be required for the full quantity of tobacco received by them, in which ſhall be expreſſed whether the tobacco ſo received, be ſweet ſcented, or Oronoko, ſtemmed or leaf; which receipt ſhall be in the form following, to wit:

RIVER, No.

warehouſe, the *day of* 17

Form of tranſfer receipts.

RECEIVED of , *pounds of tranſfer tobacco, to be delivered on demand to him, or to his order, according to the directions of the act, intituled,* "An act for mending the ſtaple of tobacco, and preventing fraud." Witneſs our hands.

Their date and currency.

And ſhall bear date the day the tobacco for which the ſame is given ſhall be received and paſſed, and ſhall be current in all tobacco payments, according to the ſpecies expreſſed in the receipt, within the county wherein ſuch inſpectors ſhall officiate, and in any other county next adjacent thereto, and not ſeparate therefrom by any of the great rivers or bay herein after mentioned, that is to ſay: *James* river below the mouth of *Appamattox*; *York* below *Weſt-point*; *Rappahannock* below *Taliaferro's Mount*; or by the bay of *Cheſapeake*; and ſhall be transferrable from one to another in all ſuch payments, except as herein is excepted, and ſhall be paid and ſatisfied by the inſpector or inſpectors who ſigned the ſame, upon demand. And for every hogſhead of tobacco brought to any public warehouſe and transferred, there ſhall be allowed by the inſpectors thereof to the perſon bringing the ſame, after the rate of four pounds of tobacco for every hundred pounds of tobacco the ſaid hogſhead ſhall contain, for the caſk, ſo as ſuch allowance do not exceed thirty pounds of tobacco, provided the caſk or hogſhead is good, and of ſuch dimenſions as is herein after expreſſed; and the ſaid inſpectors ſhall, and they are hereby obliged to make every hogſhead by them paid away in diſcharge of any receipt by them given as aforeſaid, to contain one thouſand pounds of nett tobacco at the leaſt; and for every hogſhead of tobacco by them paid away, well lined and nailed, fit for ſhipping, there ſhall be paid by the perſon ſhipping ſuch hogſhead, one dollar for inſpection, and fifty-eight cents for prizing, and nails; which ſaid ſum of fifty-eight cents, the inſpectors may retain in their hands for their own uſe, to reimburſe them the expenſe and trouble of providing nails and prizing. And the perſon demanding or receiving tobacco in diſcharge of receipts as aforeſaid, ſhall allow to the inſpectors thirty pounds of tobacco for each hogſhead ſo received, for the caſk, and two pounds of tobacco for every hundred pounds of tobacco contained in ſuch receipts, and ſo in proportion for a greater or leſſer

Allowance for caſk.

Weight of tobacco prized in diſcharge of receipts.

One dollar for inſpection, and fifty-eight cents for prizing and nails.

Allowance for caſk and ſhrinkage.

quantity, for shrinkage and waſting, if the ſaid tobacco be paid within two months after the date of the receipt given for the ſame, and one pound of tobacco for every hundred, for every month the ſame ſhall be unpaid after the ſaid allowance; ſo as ſuch allowance for shrinkage and waſting do not exceed in the whole ſix pounds of tobacco for every hundred. And if any inſpector or inſpectors, by whom any ſuch receipts for tobacco as aforeſaid ſhall be ſigned, ſhall refuſe or delay to pay and ſatisfy the ſame when demanded, every inſpector ſo refuſing or delaying, ſhall forfeit and pay to the party injured, double the tobacco ſo refuſed or delayed to be paid, to be recovered with coſts in any court of record within this ſtate, if the receipt or receipts ſo refuſed or delayed to be paid, exceed two hundred pounds of tobacco; and if the ſaid receipt or receipts do not exceed two hundred pounds of tobacco, the double value aforeſaid ſhall and may be recovered before any juſtice of the peace of the county wherein the warehouſe ſhall be, at which the receipt or receipts ought to be paid.

Remedy againſt inſpectors.

XXI. ALL tobacco brought to any of the ſaid warehouſes in hogſheads to be exported, on account, and for the uſe of the owner thereof, after the ſame ſhall have been received, examined, found to be good, and weighed, ſhall be ſtamped as herein before directed; and the ſaid inſpectors, or one of them, ſhall deliver to the perſon bringing the ſame, as many receipts, ſigned as aforeſaid, as ſhall be required for the number of hogſheads ſo brought and ſtamped, in which ſhall be expreſſed, whether the tobacco ſo received, be ſweet ſcented or Oronoko, ſtemmed or leaf, and whether the ſame be tied up in bundles or not; and where any hogſhead hath part leaf and part ſtemmed, ſhall ſignify the ſame at the bottom of the receipt; and they ſhall not mix ſtemmed and leaf tobacco in any hogſhead which they ſhall prize, and pay away in diſcharge of their tranſfer receipts; and for every hogſhead brought to any of the ſaid warehouſes, to be exported by land or by water out of this ſtate, there ſhall be paid to the inſpectors attending at ſuch warehouſes, by the exporter, at the time of demanding the ſame for exportation, the ſum of one dollar, and the owners of the tobacco ſhall find and provide nails ſufficient for ſecuring and nailing thereof; and where they ſhall fail ſo to do, the inſpectors at ſuch warehouſe, ſhall furniſh nails for the purpoſe aforeſaid, and ſhall be allowed and paid by the owner, thirteen cents for each hogſhead ſo ſecured. And if any inſpector or inſpectors, ſhall alter, change or deliver out any hogſhead of tobacco, other than the hogſhead for which the receipt for crop tobacco to be taken in, was by him or them given; or ſhall alter or change any ſuch tobacco, although no ſuch receipt ſhall have been given, ſuch inſpector or inſpectors ſhall forfeit and pay one hundred and fifty dollars for every hogſhead ſo altered, changed or delivered out. And if any inſpector ſhall fail or refuſe to deliver any hogſhead of tobacco, when the ſame ſhall be demanded for exportation, ſuch inſpectors ſhall forfeit and pay to the owner thereof, double the value of the tobacco, which they ſhall ſo refuſe or fail to deliver. And all inſpectors ſhall, and they are hereby obliged, if required, to take in any receipt or receipts by them given for crop tobacco; and after having weighed ſuch tobacco, to give tranſfer receipts for the ſame, with an allowance of four *per centum* for the caſk; ſo as ſuch allowance do not exceed thirty pounds of tobacco for every caſk. *Provided*, that ſuch hogſhead ſhall contain, at leaſt, one thouſand pounds of nett tobacco, and not mixed leaf and ſtemmed. *Provided nevertheleſs*, that no inſpectors ſhall give their receipt or receipts for any tranſfer or crop tobacco, which ſhall be opened or picked by any picker legally appointed, until the proprietor of ſuch tobacco, or his or her agent, ſhall have firſt paid or tendered to ſuch picker, his lawful charges for opening or picking the ſame. And in the abſence of any ſuch picker, a payment, or tender to any of the inſpectors there attending, for the uſe of the picker, ſhall be as effectual as if made to ſuch picker in perſon. And if any inſpectors ſhall deliver their receipt or receipts for any ſuch tobacco, ſo opened or picked, before ſuch payment or tender be made, they ſhall be liable to ſuch picker for the amount of the ſame.

How receipts are to be given for crop tobacco.

Inſpection tax of one dollar to be paid by the exporter.

Penalty on inſpectors changing tobacco,

or failing to deliver it when demanded.

To tranſfer crop tobacco.

Pickers to be paid before the receipts are delivered.

XXII. AND for reſtraining the undue practice of mixing trash with ſtemmed tobacco, and preventing the packing of tobacco in unſizeable caſks: *Be it enacted*, that all ſtemmed tobacco not laid ſtraight, whether the ſame be packed looſe, or in bundles, ſhall be accounted unlawful tobacco; and that no tobacco packed in hogſheads, which exceed fifty inches in the length of the ſtave, or thirty-two inches at the head, within the crow, making reaſonable allowance for prizing, which allowance ſhall not exceed two inches above the

Stemmed tobacco to be laid ſtraight.

Size of tobacco hogſheads.

gauge, in the prizing head, shall be paſſed or received; but the owner of ſuch tobacco packed in caſks of greater dimenſions than before expreſſed, ſhall be obliged to repack the ſame in ſizeable caſks, at his own charge, before the ſame ſhall be received or ſtamped by the inſpectors.

Penalty for delivering tobacco without an order from the proprietor.

XXIII. AND whereas many and great inconveniences have ariſen from inſpectors undertaking to deliver tobacco, the property of others, in their warehouſes, without order from the proprietors of the ſame: *Be it enacted*, That if any inſpector ſhall preſume to deliver any tobacco in his warehouſe, without order from the owner or proprietor of ſuch tobacco, every inſpector ſo offending, and being thereof duly convicted in the court of the county wherein he officiates, is declared incapable of ſerving forever after as an inſpector in this ſtate, and moreover ſhall be liable to the penalty of one hundred and fifty dollars for every hogſhead of tobacco ſo as aforeſaid delivered without order of the owner or proprietor thereof; to be recovered by ſuch owner or proprietor, thereof, if he or ſhe ſhall proſecute within four months after the offence committed; or if he or ſhe decline the proſecution, then after that time, by any perſon who ſhall inform or ſue for the ſame, by action of debt or information, in any court of record within this commonwealth. And if any inſpector ſhall deliver any tranſfer receipts or notes of credit for tobacco, to any perſon or perſons, unleſs at the time of delivering the ſame, he ſhall have actually and *bona fide* received and paſſed tobacco, the property of him, her, or them, in whoſe name or names ſuch receipts or notes ſhall be made out, to the full amount of the quantity therein ſpecified, every inſpector ſo offending, and being duly convicted, ſhall be diſabled from ſerving as an inſpector, and moreover ſhall forfeit twenty dollars for every hundred weight of tobacco ſuch fictitious notes ſhall expreſs, to any perſon who will ſue for the ſame; recoverable by action of debt, in any court of record.

And for iſſuing fictitious notes.

Inſpector to give crop notes in exchange for tranſfer.

XXIV. THE owners of any tranſfer receipts, may, at any time before the ſale of the tobacco contained in ſuch tranſfer receipts, as hereinafter is directed, receive and mark hogſheads of tobacco to ſatisfy ſuch receipts; and the inſpectors ſhall take in their former receipts, and deliver crop receipts for ſuch hogſheads, and ſhall be anſwerable for the ſafe keeping thereof, in the ſame manner as they are for crop tobacco; but the perſons receiving ſuch hogſheads ſhall pay to the inſpectors one dollar and fifty-eight cents, for the inſpection and nails for every hogſhead, that is to ſay, fifty-eight cents down to the inſpectors for their own uſe for nails and their trouble in prizing, and one dollar as inſpection, when the tobacco is delivered. And the inſpectors ſhall at the court held for their county in the month of *September* yearly, or if there be no court in that month, then at the next court held for their county, lay before the court an account upon oath, of all tranſfer receipts that were not by them taken in and received before the time of ſale herein before mentioned: And after ſuch account exhibited and oath made, ſhall ſell the tobacco in ſuch receipts contained, deducting the allowance for ſhrinkage and waſting, at public auction, at the door of the courthouſe, between the hours of twelve and two; and the inſpectors ſhall pay the money ariſing by ſuch ſale, in ſatisfaction of their receipts, from time to time, to the proprietors thereof, making their demand, under the ſame penalty as is inflicted for not paying inſpectors receipts. And all inſpectors ſhall keep a juſt and true account of the tobacco gained or ſaved upon the allowance made for caſk and for ſhrinkage, and for tranſfer tobacco, or otherwiſe; and if any tobacco ſhall be ſo gained or ſaved, ſhall exhibit an account thereof, and ſhall alſo ſell the tobacco ſo gained and ſaved, in the manner as is directed for the ſale of tranſfer tobacco, and ſhall account for the money ariſing by ſuch ſale to the treaſurer of this ſtate for the time being, in their next account with him; and the ſaid treaſurer ſhall account for the ſame to the General Aſſembly; and no inſpector ſhall convert any tobacco ſo gained to his own uſe.

And at September court yearly give an account of, and ſell tobacco for notes outſtanding.

Alſo tobacco gained by allowance for caſk and ſhrinkage.

To account with the treaſurer upon oath, when and how.

XXV. ALL inſpectors ſhall before the tenth day of *October*, in every year, account with the treaſurer of this ſtate upon oath, for all monies received, or which ought to be received by them, by virtue of this act, except the money paid for nails, and for their trouble in prizing, or for repacking damaged tobacco, which ſhall be reſunded at their inſpections, for every hogſhead of tranſfer tobacco; in which account they ſhall be allowed their ſalaries, the rents of the warehouſes, and all other neceſſary diſburſements in purſuance of this act. And in order to eaſe the inſpectors giving their perſonal attendance at the treaſury, they are hereby required, after ſtating their accounts with the treaſurer, as

above directed, to take the following oath before ſome one juſtice of the peace of the county where they officiate, to wit:

WE A. B. *and* C. D. *do ſwear, that the account now produced, contains an exact ſtate of all the tobacco ſhipped the preceding year from* ware-*houſe, all taxes received, or due for the ſame, alſo all tobacco gained at the ſaid inſpection by any means whatſoever.* So help us GOD.

And the juſtice of the peace before whom they are ſworn, ſhall, and he is hereby required, to certify on the ſaid account, that they have taken this oath.

To return an account annually of tobacco ſhipped.

XXVI. THE ſeveral inſpectors of tobacco in this ſtate, ſhall annually, at the time of ſettling their accounts with the treaſurer, deliver to him an account, upon oath, of all the tobacco ſhipped from their reſpective warehouſes within the year preceding, containing the number of hogſheads or caſks ſent on board each ſhip or veſſel reſpectively; and every inſpector failing therein, ſhall forfeit and pay the ſum of one hundred and fifty dollars.

Proceedings where uninſpected tobacco is about to be exported by water.

XXVII. AND any juſtice of the peace of any county near the place where any ſhip or other veſſel ſhall ride, upon information made to him upon oath, by any free man, that there is good cauſe to ſuſpect any tobacco uninſpected, in caſk, bulk, or parcels, to be on board ſuch ſhip or other veſſel, ſhall, and he is hereby empowered and required to iſſue his warrant, directed to the ſheriff or any conſtable of his county; and the ſheriff or conſtable ſhall have full power and authority, and he is hereby required to enter and go on board of ſuch ſhip or other veſſel, to ſearch for, and ſeize ſuch tobacco, and the ſame being ſeized, ſhall be brought on ſhore and carried before the ſame, or any other juſtice, who ſhall cauſe the ſaid tobacco to be carried to the neareſt warehouſe, and there inſpected, and if paſſed, reſtored to the owner, in caſe he ſhall be innocent of the fraud; but if he ſhall appear to have been concerned in ſuch fraud, or if no owner ſhall claim within three months, the ſaid tobacco ſhall be ſold by the inſpectors, and the money ariſing from ſuch ſale be paid into the public treaſury, and accounted for to the General Aſſembly. And the commanding officer or ſkipper of any ſhip or veſſel, on board which ſuch tobacco is found, ſhall forfeit to the informer twenty dollars for every hundred weight, and ſo in proportion for a leſs quantity; to be recovered with coſts in any court of record, if it be five dollars or more. And if any maſter or commanding officer, or ſkipper, of any ſhip or veſſel, or any other perſon whatſoever, ſhall reſiſt the officer in the execution of any ſuch warrant, every ſuch maſter, commanding officer or ſkipper, ſhall forfeit and pay ſix hundred dollars; and every ſailor or other perſon ſo reſiſting, ſhall forfeit and pay eighty dollars. And if any action ſhall be brought againſt any juſtice of the peace, ſheriff or conſtable, for doing any thing in the execution of this act, the defendant may plead the general iſſue, and give this act in evidence; and if the plaintiff ſhall be non-ſuited, or a verdict paſs againſt him, or a judgment on demurrer, the defendant ſhall recover double coſts.

Old tobacco to be ſold.

XXVIII. WHERE any tobacco hath remained, or ſhall hereafter remain undemanded in a public warehouſe two years after the ſame hath been, or ſhall be inſpected, the inſpectors ſhall advertiſe in the *Virginia* gazette for three weeks ſucceſſively, a liſt of the marks, numbers, and weights of ſuch tobacco, with the names of the perſons for whom it was inſpected; and if no owner appears to claim the ſame within three months, they ſhall at the next court to be held for the county in which ſuch warehouſe ſhall be, after the expiration thereof, and advertiſing as aforeſaid, deliver to the court the like liſt, which court is hereby empowered and required, to order the ſame to be publicly ſold at the court-houſe door, on a court day, to the higheſt bidder; the clerk of ſuch court ſhall tranſmit within three months to the auditor of public accounts, a liſt of ſuch tobacco ſo directed by the court to be ſold; and the money ariſing from the ſale thereof, ſhall be paid by the inſpectors to the treaſurer of this ſtate for the time being, who ſhall account for the ſame, from time to time, to the General Aſſembly. And if any perſon, having a right to any tobacco ſo ſold, ſhall prove his property therein, the ſaid treaſurer ſhall repay to ſuch perſon the money for which ſuch tobacco was ſold.

Inſpectors incapacitated for other offices.

XXIX. NO perſon taking upon himſelf the office of inſpector, ſhall during his continuance in that office, or until he hath obtained a *quietus* from the treaſury, be capable of being elected a member of either houſe of aſſembly, or ſhall preſume to intermeddle, or concern himſelf with an election of a member or members of either of the ſaid houſes, otherwiſe than by giving his vote, or ſhall

endeavor to influence any perſon or perſons in giving his or their vote, under the penalty of one hundred and fifty dollars for every offence; nor ſhall any inſpector by himſelf, or any perſon for him, be allowed to keep an ordinary, or houſe of entertainment, at or near the warehouſe where he is an inſpector; and every inſpector herein offending, ſhall be incapable of ſerving in that office; neither ſhall any inſpector during his continuance, be, or undertake to be a ſheriff, juſtice of the peace, collector of any public tax, other than what relates to any ſuch office, county levies, or poor rates, or any officers fees; nor ſhall directly or indirectly for himſelf, or for any other perſon, buy, or receive by way of barter, loan or exchange, any tobacco whatſoever, under the penalty of ten dollars, for every hundred weight of tobacco ſo bought or received. *Provided*, That nothing herein contained, ſhall be conſtrued to hinder any inſpector from receiving his rents in tobacco, which ſhall be firſt viewed, examined and ſtamped according to the directions of this act.

Penalty on inſpectors receiving other gratuity than their ſalaries and other legal allowances.

XXX. AND for the further and better direction of the inſpectors aforeſaid in their duty, *Be it enacted*, That no inſpector ſhall take, accept, or receive, directly or indirectly, any gratuity, fee, or reward, for any thing by him to be done in purſuance of this act, other than his ſalary and the other payments and allowances herein before mentioned and expreſſed; and if any inſpector ſhall take, accept, or receive any ſuch gratuity, fee or reward, ſuch inſpector being thereof convicted, ſhall forfeit and pay the ſum of three hundred dollars; to be recovered with coſts, by any perſon or perſons who ſhall inform and ſue for the ſame, by action of debt or information, in any court of record within this commonwealth, and moreover ſhall be diſabled from holding the office of inſpector during the continuance of this act. And if any perſon ſhall offer any bribe, reward or gratuity, to any inſpector for any thing by him to be done in purſuance of this act, other than the fees and allowances herein before directed, every perſon ſo offending, and being thereof convicted, ſhall for every ſuch offence, forfeit and pay the ſum of ſixty dollars; to be recovered in any court of record within this ſtate; one half of which forfeiture ſhall be to and for the uſe of ſuch inſpector refuſing ſuch bribe or reward, and the other half to the perſon who will inform and ſue for the ſame. And there ſhall be paid to each of the inſpectors appointed to attend, and attending the ſaid ſeveral warehouſes, the ſalaries herein after mentioned, that is to ſay:—At *Pitt's*, *Guildford*, and *Pungoteague*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Roy's*, two hundred dollars; at *Bolling's Point*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Bollingbrook's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Cedar-point*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Hobb's-hole*, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Bowler's*, one hundred dollars; at *Layton's*, one hundred dollars; at *Colcheſter*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Alexandria*, two hundred dollars; at the falls of *Patowmac*, one hundred and thirty-three dollars and thirty-three cents; at *Poropotank*, one hundred dollars; at *Deacon's Neck*, one hundred dollars; at *Page's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Crutchfield's*, two hundred dollars; at *Meriwether's*, two hundred dollars; at *Rocky-Ridge*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Oſborne's*, two hundred dollars; at *John Bolling's*, two hundred and thirty-three dollars and thirty-three cents; at *Mancheſter* warehouſe, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Trent's* warehouſe, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Johnſon's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Byrd's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Shocko*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Rockett's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Smithfield* and *Fulgham's*, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at *Shepherd's*, one hundred dollars; at *Mantapike* and *Frazer's*, under one inſpection, one hundred and fifty dollars; at *Todd's* and *Aylett's*, under one inſpection, one hundred and fifty dollars; at *Boyd's-hole* and *Machodack*, under one inſpection, one hundred and fifty dollars; at *Gibſon's*, one hundred dollars; at *Davis's* and *Lowry's*, under one inſpection, one hundred dollars; at *Deep* creek and *Glaſſcock's*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at North and South *Wicomico*, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at *Coan's*, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Indian* creek and *Dymer's*, under one inſpection, one hundred dollars; at *Urbanna*, one hundred dollars; at *Kemp's*

And on the perſon offering a bribe.

Inſpectors' ſalaries.

warehouſe on *Pianketank*, fifty dollars; at *Milner's*, one hundred and thirty-three dollars and thirty-three cents; at *Suffolk*, one hundred and thirty-three dollars, and thirty-three cents; at *Cherryſtone's* and *Naſwaddox*, under one inſpection, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Littlepage's*, one hundred and ſixteen dollars and ſixty-ſeven cents; at the *Brick-houſe*, one hundred dollars; at *Hood's*, one hundred dollars; at *Boyd's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Davis's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Blandford*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Quantico*, two hundred and thirty-three dollars and thirty-three cents; at *Dumfries*, two hundred and thirty-three dollars and thirty-three cents; at *M'Rae's*, two hundred dollars; at *Bullitt's*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Cat point*, one hundred dollars; at *Totuſkee*, one hundred dollars; at *Gray's* creek, one hundred and ſixteen dollars and ſixty-ſeven cents; at *Low point*, one hundred and thirty-three dollars and thirty-three cents; at *Falmouth*, two hundred dollars; at *Acquia*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Dixon's*, two hundred dollars; at *Frederickſburg*, two hundred and thirty-three dollars and thirty-three cents; at *Royſton's*, two hundred and thirty-three dollars and thirty-three cents; at *Nomony*, one hundred dollars; at *Leed's* and *Mattox*, under one inſpection, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Yeocomico* and *Kinſale*, under one inſpection, one hundred and thirty-three dollars and thirty-three cents; at the *College Landing*, eighty-three dollars and thirty-three cents; at *York-town*, eighty-three dollars and thirty-three cents; at *Hampton*, fifty dollars; at *Crow's* warehouſe and at *Creſap's*, the inſpectors ſhall receive for each hogſhead by them inſpected, the ſum of ſixty-ſeven cents, ſeventeen cents whereof ſhall be paid to the proprietor for the rent of the warehouſe, and the reſidue for their own uſe; at *Romney*, fifty dollars; at *Lynch's*, two hundred and twenty dollars; at *Rivanna*, one hundred and thirty-three dollars and thirty-three cents; at *Swan* creek, one hundred and thirty-three dollars and thirty-three cents; at *Mecklenburg*, one hundred dollars; at *Barkſdale's*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Weſt-hill*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *High-ſtreet*, two hundred and ſixty dollars and ſixty-ſeven cents; at *Weſt-brook*, two hundred and ſixty ſix dollars and ſixty-ſeven cents; at *Peterſburg*, two hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Henderſon's*, one hundred and thirty-three dollars and thirty-three cents; at *Nicholas's*, one hundred and thirty-three dollars and thirty-three cents; at *Morgan-town*, fifty dollars; at *Great Falls*, one hundred and thirty-three dollars and thirty-three cents; at *Woodſon's*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Portſmouth*, one hundred dollars; at *Thornton's*, one hundred and ſixty-ſix dollars and ſixty-ſeven cents; at *Amberſt*, one hundred dollars; at *Booker's*, one hundred and thirty-three dollars and thirty-three cents; at *Horſley's*, one hundred dollars.

XXXI. *PROVIDED always*, That if the quantity of tobacco, which ſhall be received at any warehouſe already eſtabliſhed, or hereafter to be eſtabliſhed, ſhall not be ſufficient to pay the uſual charges and the inſpectors ſalaries, the deficiency ſhall not be paid by the public.

If the warehouſe does not pay the inſpectors ſalaries, the deficiency not to be made good by the public.

XXXII. THE inſpectors at the ſeveral warehouſes, eſtabliſhed above the falls of *James* river, upon the delivery of their notes, or an order where notes have not been iſſued, ſhall deliver the tobacco for tranſportation, with a printed manifeſt, deſcriptive of the owner's name, the name of the ſkipper of the batteau or canoe, if tranſported by water, or if waggoned, the name of the waggoner, to what warehouſe or port the ſame is deſtined, and to whom to be delivered; the ſaid manifeſt ſhall moreover expreſs the marks, numbers, and weights of the tobacco, and each hogſhead ſhall be ſtamped with the name of the warehouſe at which it was inſpected; which manifeſt ſhall, by the ſkipper or waggoner, (as the caſe may be) if the tobacco is intended to be ſent to any warehouſe heretofore eſtabliſhed, be delivered to the inſpectors thereof, who are hereby required to receive the ſame, and grant a receipt therefor, and enter ſuch tobacco in a ſeparate book to be by them provided and kept for that purpoſe, and on the receipt aforeſaid being preſented, ſhall deliver the ſaid tobacco with ſuch manifeſts, as by law are required for other tobacco lodged in their warehouſes for exportation, when required, and may demand for all ſuch tobacco the ſame warehouſe rent as for other tobacco by them inſpected. *Provided always*, that nothing in this act contained, ſhall be conſtrued to prevent

Inſpectors above the falls of James river to deliver printed manifeſts with the tobacco.

any owner of tobacco paſſed at the ſaid inſpections, who has previouſly paid the legal duties, from exporting, ſelling, or ſtoring the ſame in any private warehouſe, without being obliged to ſtore it in any warehouſe heretofore eſtabliſhed.

Copies thereof and of certificates of payment of duties to be ſent to the auditor.

XXXIII. THE owners of ſuch tobacco, previous to the delivery thereof, ſhall procure a duplicate of the manifeſt, with a certificate from the inſpectors, that the duties impoſed by law have been paid; which certificate, with all others granted in ſimilar caſes, ſhall be lodged with the clerk of the court of that county where the tobacco was inſpected, to be by him tranſmitted to the auditor of public accounts, on or before the twenty-fifth day of *October*, annually, to be by him compared with the inſpectors accounts. And in caſe the owner of the tobacco ſhall ſuſpect any fraud to have been practiſed or uſed by any ſkipper or waggoner in the tranſportation thereof from either of the ſaid warehouſes, it ſhall be lawful for the inſpectors at any warehouſe to which the ſame may be brought, and they are hereby required, at the requeſt of ſuch owner, to reinſpect and weigh the ſame, and if found to be damaged or embezzled, the inſpectors ſhall not enter the ſame in their books, but it ſhall remain ſubject to the directions of the owner, in like manner as other damaged tobacco.

Owner may have his tobacco reinſpected and weighed.

The warehouſes to be under the ſame regulations as others.

XXXIV. THE appointment of inſpectors, and all other regulations appertaining to the ſaid warehouſes, ſhall be the ſame as are provided for by law for other inſpections, ſo far as the ſame do not contravene this act. All tobacco inſpected at either of the ſaid warehouſes, ſhall be ſubject to the ſame duties and impoſts, and be collected and accounted for by the inſpectors in the ſame manner, and under the like penalties, as are directed and preſcribed for other warehouſes heretofore eſtabliſhed. And the inſpectors at each of the ſaid warehouſes, may demand and receive for each hogſhead by them inſpected, the ſum of ſixty-ſeven cents, ſeventeen cents whereof, to be by them accounted for and paid to the proprietor for the rent of the warehouſe, and the reſidue for their own uſe. *Provided nevertheleſs*, that no perſon ſhall be obliged to receive any notes paſſed at any of the ſaid warehouſes, in diſcharge of any tobacco contracts heretofore entered into.

Allowance to the inſpectors and for warehouſe rent.

Tobacco inſpected there, ſhall not be a tender in certain contracts.

Inſpectors to deliver tobacco to be manufactured.

XXXV. THE inſpectors of the ſeveral warehouſes within this commonwealth, ſhall deliver any inſpected tobacco to any perſon or perſons who ſhall duly demand the ſame, by delivery of the notes or otherwiſe, for the purpoſe of manufacturing it, and grant him or them a manifeſt therefor, upon ſuch perſons paying the uſual duties, and lodging with them a certificate of his or their having, before ſome court of record within this commonwealth, entered into a bond with ſufficient ſecurity, in the penalty of fifteen hundred dollars, payable to the governor and his ſucceſſors, for the uſe of the commonwealth, with condition that he or they will not export, or cauſe or ſuffer to be exported, either by land or water, any tobacco received by him or them for the purpoſe of manufacturing, until it has been manufactured.

Method of detecting inſpectors who do not do their duty.

XXXVI. AND for the better detecting inſpectors who ſhall not do their duty, and for the more ſpeedy and eaſy examination into complaints againſt them: *Be it enacted*, that any two juſtices of the peace ſhall have power to hear all complaints againſt any inſpector within their county, and to take the depoſitions of witneſſes upon the matter of ſuch complaint on both ſides, which ſhall be tranſmitted by them to the governor and council, for their determination. And to the end ſuch depoſitions may be taken in the beſt manner, the clerk of the county, or ſome ſufficient perſon by him to be appointed, ſhall attend the ſaid juſtices for that purpoſe, and be paid by the county the ſame fees as are or ſhall be by law eſtabliſhed for attending the examination of witneſſes upon a *dedimus poteſtatem*. And moreover any two juſtices ſhall have power to viſit all or any of the public warehouſes within their county, and if they ſhall diſcover any negligence in the inſpectors, either in ſecuring the tobacco, or ſtowing the ſame away in a proper manner for ſaving the room in ſuch houſes, or that they are guilty of any other breach or breaches of their duty, the juſtices ſhall certify the governor and council thereof. And if any inſpector ſhall be adjudged guilty of a breach of his duty, he ſhall be removed from his office, and be forever after incapable of ſerving as an inſpector. And if any inſpector ſhall be removed from his office, upon a complaint and proſecution againſt him in the method by this act preſcribed, he ſhall be liable to the action on the caſe of the proſecutor for his neceſſary coſts and expenſes in ſuch proſecution, in which the proſecutor ſhall recover his full coſts of ſuit; but if the inſpector or inſpectors ſhall be acquitted upon ſuch examination, the proſecutor ſhall be liable to the

action of such inspector or inspectors, for the recovery of all damages and expenses which he or they shall have sustained or been put to by such prosecution and costs, unless the governor and council shall certify that there was reasonable cause for such complaint; and every inspector shall moreover be liable to the action of the party grieved for all loss and damage that may happen or arise to any person, by occasion of any failure of duty, or neglect of any such inspector; in which action the plaintiff shall recover his full costs, although the damage do not exceed seven dollars.

When warehouses are burnt the public to pay for the tobacco and inspectors indemnified.

XXXVII. IF any of the warehouses herein before mentioned, shall happen to be burnt, the loss sustained thereby shall be made good, and repaid to the several persons injured, by the General Assembly; and in case of such accident, no inspector shall be sued or molested for, or by reason of any receipts by them given, or for any tobacco burnt in any of the said warehouses, but shall be altogether acquitted and discharged of, and from the payment of the tobacco mentioned in such receipts; any thing herein before contained to the contrary, notwithstanding. *Provided always*, that if the receipts for tobacco so burnt or destroyed, shall be of an older date than twelve months, the tobacco shall not be paid for by the public, but the owner or proprietor thereof shall bear the loss.

Exception.

Warehouses not to be used for private purposes.

XXXVIII. THE inspectors shall not permit the proprietor or any other person to make use of the warehouse at which they are inspectors; and if any warehouse shall hereafter happen to be burnt, and it shall appear that such warehouse was burnt by means of the inspectors permitting the proprietor or any other person to make use thereof, or by the negligence or voluntary act or permission of such inspectors, then the estates of such inspectors shall be subjected to pay to the treasurer for the time being, all such sum or sums of money as shall have been paid to the person or persons so injured, to be recovered by such treasurer, by action of debt in any court of record within this commonwealth.

No fire to be kindled in or near a warehouse.

XXXIX. IF any person hereafter shall make any fire within any public warehouse, or without doors, within one hundred yards of such warehouse, other than in the inspectors counting-room, squares, or funnels, such person, if a freeman, shall, for every such offence, forfeit and pay thirty dollars; to be recovered with costs by action of debt or information in any court of record within this state, by the informer, to his own use; and if a servant or slave, he or she shall, by order of any justice of the peace, receive on his or her bare back twenty lashes for every such offence. And it shall not be lawful for any person whatsoever to erect or build, or cause to be erected or built, any wooden chimney or chimnies within two hundred yards of any public warehouse; and where any such are already built within the distance aforesaid, of any public warehouse, the owner or proprietor thereof shall pull down the same, or on refusal or neglect so to do within one month after the passing of this act, it shall be lawful for the sheriff of the county, and he is hereby required, to cause such chimney or chimnies to be pulled down and demolished.

Nor wooden chimnies built near them.

Death, to issue double notes for the same tobacco, or notes for tobacco not received.

XL. IF any inspector or inspectors shall give, deliver, or issue to any person whatsoever, his or their receipt expressed to be for any hogshead or cask of tobacco, or for any quantity of transfer tobacco, which they have not actually received into the warehouse whereof they are inspectors, at the time of giving such receipt, or shall give, deliver, issue, or cause or procure to be given, delivered, or issued, more than one receipt for any hogshead or cask of tobacco, or quantity of transfer tobacco by him or them received, except where authorised by law so to do, such inspector or inspectors, being thereof convicted by due course of law, shall be adjudged a felon, and shall suffer death as in case of felony, without benefit of clergy.

Method to be taken where receipts are lost.

XLI. IF any inspector's receipt be casually lost, mislaid, or destroyed, the person or persons entitled to receive the tobacco by virtue of any such receipt, shall make oath before any justice of the peace of the county where the same is [illegible], to the number and date of every such receipt, to whom and where [illegible], and for what quantity of tobacco the same was given, and that such receipt is lost, mislaid, or destroyed, and that he, she or they, at the time such receipt was lost, mislaid, or destroyed, was lawfully entitled to receive the tobacco therein mentioned, and shall take a certificate thereof from such justice, and shall advertise the loss of such receipt, at the courthouse of the county in which such inspection may be, on the court day, and at the inspection where the tobacco was brought, for four weeks successively; and shall moreover give

bond with ſufficient ſecurity to the inſpectors in double the amount of the tobacco ſo claimed, to indemnify the perſon who may thereafter produce the original receipt within twelve months after notice given of the loſs of ſuch receipt, the value by him paid for the ſame, when a duplicate of the ſaid receipt ſhall be granted by the inſpectors to the perſon or perſons entitled to receive the tobacco by virtue of ſuch original receipt, and not otherwiſe. The bond ſo taken ſhall be aſſignable by the inſpectors taking the ſame to the perſon producing the original receipt, who may maintain an action of debt thereupon, and ſuch aſſignment ſhall exonerate the inſpectors from any claim or demand againſt them by virtue of the original receipt. *Provided never theleſs*, That if the principal and ſecurity ſhould at the time of taking ſuch bond be inſufficient, that in that caſe the inſpectors ſhall be reſponſible for the value of the tobacco to the perſon producing ſuch original receipt. And if any perſon ſhall be convicted of making a falſe oath, or producing a forged certificate in the caſe aforeſaid, ſuch perſon ſhall ſuffer as in caſe of wilful and corrupt perjury.

New inſpectors to give their predeceſſors a receipt for the tobacco in the warehouſes.

XLII. WHEN any new inſpectors ſhall be appointed at any of the ſaid warehouſes, ſuch inſpectors ſhall, and they are hereby required, to give to the perſon or perſons whom they ſhall ſucceed, a receipt with his or their hands ſubſcribed, containing the numbers, marks, groſs, tare, and nett weight, of all and every hogſhead or caſk of tobacco which ſhall be then remaining at the warehouſe or warehouſes, at which they are appointed inſpectors, with the delivery and payment of which ſaid hogſheads or caſks of tobacco ſo remaining, he or they ſhall from thenceforth be chargeable and liable; but he or they ſhall in no wiſe be accountable or anſwerable for the loſs of weight, or for quality of tobacco contained in any hogſhead or caſk, for which receipt was by him or them ſo as aforeſaid given. And if any hogſhead or caſk of tobacco ſhall hereafter be received by any perſon or perſons whatſoever, and delivered out of any of the ſaid warehouſes for exportation by the inſpector or inſpectors attending the ſame, ſuch inſpector or inſpectors from the time of ſuch delivery, ſhall be forever diſcharged and acquitted from all actions, coſts, and charges, for, or by reaſon of the tobacco contained in any ſuch hogſhead or caſk being unſound and unmerchantable, or of leſs quantity than the receipts given for the ſame ſhall ſpecify; any thing herein before contained to the contrary, notwithſtanding.

Inſpectors diſcharged on the delivery of tobacco.

Prizes to be uſed in turn for prizing tobacco picked or light hogsheads.

XLIII. AND when any prized tobacco ſhall be brought to any public warehouſe, in order to be ſhipped on freight or otherwiſe, and the inſpectors there attending ſhall refuſe to paſs ſuch tobacco, ſuch as ſhall be bad and unmerchantable, ſhall be picked and ſeparated from the reſt; or where any light crop tobacco ſhall hereafter be brought to any of the ſaid warehouſes, in either caſe, the ſaid inſpectors, if required, ſhall permit the owner or other perſon bringing ſuch tobacco, to make uſe of one or more of their prizes, for the repacking, prizing, or making heavier ſuch tobacco, without fee or reward; and if there ſhall be ſeveral hogſheads of tobacco belonging to ſeveral owners, to be picked, repacked, or prized at any public warehouſe, the owner or other perſon bringing the ſame, whoſe tobacco ſhall be firſt viewed and refuſed, or found light, ſhall be firſt permitted and allowed to make uſe of ſuch prize or prizes for the purpoſes aforeſaid; and no inſpector ſhall take or convert to his own uſe, or otherwiſe diſpoſe of, any draughts or ſamples of transfer or crop tobacco, but the ſame, if fit to paſs, ſhall be put into the hogshead or bulk out of which it was drawn, under the penalty of forfeiting four dollars for every draught ſo taken away, and not returned as aforeſaid, contrary to the directions of this act; to be recovered by the informer, one moiety to his own uſe, and the other moiety to the uſe of the proprietor of ſuch tobacco, before any juſtice of the peace of the county wherein ſuch offence ſhall be committed. And all inſpectors, if required, ſhall alter the mark and number of any hogshead of reprized tobacco for which they have before given a receipt; and for preventing confuſion and miſtakes, ſhall keep a waſte book, in which ſhall be entered the marks and numbers of all hogsheads of tobacco received by them, and another book in which ſhall be entered the marks, numbers, and weights thereof, when the ſame ſhall be delivered out by them; and all inſpectors, when required, ſhall be obliged to prize any light hogshead of tobacco under one thouſand pounds, ſo as to make it up the weight one thouſand pounds nett, but ſhall receive the ſame fee upon ſuch hogshead, as for transfer tobacco. And when any tobacco ſhall be brought to the warehouſe by the overſeer of the owner thereof, the inſpectors ſhall give receipts in the name of the owner, and not of the overſeer.

Penalty for taking and uſing draughts.

Inſpectors to prize light crop tobacco on requeſt.

To give notes in the name of the owner.

To give receipts for tobacco when brought.

XLIV. THE inſpectors of tobacco at the ſeveral warehouſes within this ſtate, ſhall immediately on the delivery of every hogshead of tobacco at the

warehouſe whereof they are inſpectors, give a receipt for ſuch tobacco, if required by the proprietor or perſon bringing the ſame to the ſaid warehouſes, expreſſing therein that the ſame is for uninſpected tobacco; every inſpector refuſing ſo to do, ſhall forfeit and pay to the owner of ſuch tobacco, the ſum of four dollars.

The oaths of maſters of veſſels intending to load with tobacco.

XLV. EVERY maſter, mate, or boatſwain of any ship or other veſſel, which ſhall arrive in this ſtate in order to load tobacco, ſhall, before the ſaid ſhip or other veſſel be permitted to take on board any tobacco whatſoever, make oath before the collector of the port wherein ſuch ſhip or other veſſel ſhall arrive (which oath the ſaid collector is hereby empowered and required to adminiſter) that they will not permit any tobacco whatſoever to be taken on board their reſpective ſhips or veſſels, except the ſame be packed in hogsheads or caſks, ſtamped by ſome inſpector legally thereunto appointed; which oath they ſhall ſubſcribe in a book to be kept by the ſaid collector for that purpoſe; and if any maſter ſhall cauſe any perſon who is not really and *bona fide* mate or boatſwain, to come on ſhore and take ſuch oath, he ſhall, for the ſaid offence, forfeit and pay fifteen hundred dollars.

No tobacco to be taken on board any veſſel in bulk or parcels. Penalties.

XLVI. IF any perſon not being a ſervant or ſlave, taking upon himſelf to carry any tobacco to or from any of the ſaid warehouſes in his boat or other veſſel for hire, ſhall take on board, or permit, or ſuffer to be taken on board, any tobacco whatſoever, in bulk or parcels, ſuch tobacco ſhall not only be forfeited, and may be ſeized by any perſon or perſons whatſoever, but the maſter or ſkipper offending herein, ſhall forfeit and pay fifty cents for every pound weight of ſuch tobacco; and the maſter or commander of any ſhip or veſſel, wherein any tobacco in bulk or parcels ſhall be found, ſhall over and above the forfeiture thereof, be ſubject and liable to the ſame penalty; to be recovered, if it doth not exceed twenty dollars, before any two juſtices of the peace of any county near the place where ſuch ſhip, boat or other veſſel, ſhall lie; and if it exceeds twenty dollars, in any court of record, by action of debt, wherein the plaintiff ſhall recover his coſts. And if any ſervant, or other perſon employed in navigating any ſuch boat, or other veſſel, ſhall connive at or conceal the taking or receiving on board any tobacco in bulk or parcel, as aforeſaid, he ſhall pay the ſum of twenty dollars, to be recovered as aforeſaid; and if ſuch ſervant or other perſon, ſhall be unable to pay the ſaid ſum, he or they ſhall, by order of ſuch juſtice, receive on his bare back, thirty-nine laſhes, well laid on; and if ſuch boat or other veſſel be under the care and management of a ſervant who cannot pay and ſatisfy the penalty ſo to be inflicted on the maſter or ſkipper offending as aforeſaid, then ſuch ſervant, and every other perſon employed under him, unable to pay the ſaid penalty, who ſhall be guilty of conniving at or concealing the taking on board tobacco in bulk or parcels, as aforeſaid, ſhall, upon every complaint, and proof thereof made to a juſtice of the peace, have and receive, by order of the ſaid juſtice, thirty-nine laſhes well laid on; and if any ſervant ſhall again be entruſted with the care and management of any boat or other veſſel, and ſhall be convicted a ſecond time of taking or receiving on board the ſame, any tobacco in bulk or parcel, contrary to the directions of this act, the owner of ſuch ſervant ſhall forfeit and pay the like ſum of fifty cents *per* pound for every pound weight of ſuch tobacco ſo taken or received on board in bulk or parcel, and ſhall alſo forfeit and pay two dollars for every day ſuch ſervant ſhall thereafter be employed as ſkipper or maſter of any boat or veſſel to him belonging; to be recovered and applied as aforeſaid. *Provided nevertheleſs*, That it ſhall be lawful for the proprietor or proprietors to break any hogshead of tobacco after it ſhall be paſſed and ſtamped, and to repack and prize the ſame into ſmall caſks for the convenience of ſtowing, provided it be done at the warehouſe where the ſame was inſpected and weighed, marked and ſtamped; and the inſpectors ſhall particularize all ſuch caſks in their manifeſts to be given to the maſters or ſkippers of the veſſel in which ſuch tobacco be laden. *Provided always*, that nothing herein before contained, ſhall be conſtrued to prohibit any perſon from carrying, or cauſing to be carried to the ſaid warehouſes, in any boat or other veſſel, any tobacco in bulk or parcels, for the payment of his or her levies, debts or other duties, or to prohibit any perſon to put or take on board any boat or other veſſel, any hogsheads or caſks of tobacco, to be water-borne to any warehouſe appointed by this act, ſo as the ſame be not carried out of the collectors or other officers of the cuſtoms diſtrict wherein the ſaid tobacco ſhall be made, nor to prohibit the owner of any tobacco to tranſport his crops, or

Proviſo's for ſundry purpoſes.

any part thereof, in hogsheads or casks, from one plantation to another, for the better handling and managing thereof, nor any purchaser of tobacco from bringing the same by water, to be repacked, sorted, stemmed, or prized, before the same be carried to the said warehouses, so as such last mentioned tobacco be packed in hogsheads or casks; but no tobacco on any pretence whatsoever, shall be carried or transported by water, to be inspected out of the district limited and appointed for the several collectors or other officers of the customs of this state, wherein the same shall be made, or being so carried, shall not be inspected or passed by any inspectors, knowing the same to be made out of such district, upon pain of forfeiting by the owner of such tobacco, and the inspectors who shall pass the same, ten dollars for every hogshead, to the informer. *Provided nevertheless*, That it shall and may be lawful for the inhabitants of *Fleet's Bay*, on the south side of *Indian* creek, in the county of *Lancaster*, to carry their tobacco by water to the public warehouse at *Indian* creek, and the inhabitants at *Warrosqueake Bay*, and the parts adjacent, to carry their tobacco to be passed at any warehouse in the upper district of *James* river.

Relanded tobacco must be delivered at some public warehouse.

XLVII. IF the skipper of any boat or vessel, or the person or persons to whom the care and management thereof shall be entrusted, shall land or put on shore any hogshead, cask, or package of tobacco, put on board the same, to be carried to any public warehouse at any other place or places, than the warehouses by this act appointed for the reception and inspection of tobacco, or at some or one of them, or the wharves or other landing to such warehouse or warehouses belonging; or shall put the same on board any other vessel, or suffer the same to be done, so as the same be not delivered at some of the said public warehouses, without fraud or embezzlement; or shall open any hogshead or cask of tobacco so as aforesaid water-borne and landed, and take thereout any tobacco before the same be received by the inspectors according to the directions of this act; or after the same has been viewed, shall fraudulently open any hogshead or cask, and take thereout any tobacco, every such offence shall be judged felony, and the offender or offenders shall suffer as in the case of felony. *Provided always*, that nothing herein before contained, shall be construed to prohibit the landing, or putting on shore, any hogshead, cask, or package of tobacco, out of any boat or other vessel, which by distress of weather shall be forced aground, or become leaky, so as such landing be really and *bona fide* for the preservation of the tobacco laden in such vessel, and that the same may with all convenient speed be thereafter carried to the warehouse or ship (as the case may be) to which it was designed, without embezzlement. *Provided also*, that if by any of the accidents aforesaid, or negligence of the master or skipper of any vessel, any tobacco which hath been viewed and stamped, shall in its carriage to the ship in which it is intended to be exported, receive so much damage as that the master of such ship or vessel will not receive it on board, every hogshead or cask of tobacco so damnified, shall with convenient speed be carried to some warehouse appointed by this act, and there lodged, until the owner of the said tobacco, or master of the vessel in which it was damaged, shall have separated the same, and repacked the good tobacco; and then the same shall be weighed, and stamped with the weight by the inspector attending such warehouse, without fee or reward; but if the owner of such tobacco, or the master of the vessel in which it was damaged, shall fail or delay to separate and repack the same within ten days, then the inspectors at the warehouse where such damaged tobacco shall be landed, shall, and they are hereby required to separate, repack, weigh and stamp the same; and such inspectors shall receive of the owner two dollars for their trouble and nails.

Penalty for landing it elsewhere, or for opening hogsheads and taking out tobacco.

Exception as to tobacco landed in distress of weather.

Provision as to damaged tobacco.

Inspectors to keep books, &c.

XLVIII. AND to the intent that the just quantity of tobacco exported may be more exactly known, and evil practices to defraud the public of the duty prevented; *Be it enacted*, that all inspectors shall carefully enter in a book, to be provided and kept for that purpose, the marks, numbers, gross, nett weight, and tare of all tobacco viewed and stamped by them as aforesaid, and in what ship or vessel the same shall be laden or put on board; and shall also, with every sloop or boat load of tobacco, send a list of the marks, numbers, gross, nett weight, and tare of every hogshead or cask of tobacco then delivered, to be given to the master of the ship or vessel in which the same shall be put on board; and if the tobacco delivered to the same sloop or boat is intended to be put on board several ships or vessels, then they shall deliver so many distinct and several lists as aforesaid, of the hogsheads or casks, to be put on board such ship or vessel respectively. But whereas it may happen that the ship in which

And deliver manifests with each load of tobacco.

such tobacco was intended to be put, may be so full as not to be able to stow all the tobacco contained in such list, in such case it shall be lawful to ship the said tobacco, or any part thereof, on board any other ship or ships where the owner thereof shall think fit; the masters of such ships endorsing on the said lists the marks and numbers of the respective hogsheads by them taken on board, and giving notice to the inspectors of the warehouse from which the same was brought; or if there be no ship to receive the said tobacco, then it shall be lawful for the master of the first mentioned ship or vessel, to put the said tobacco into any warehouse in the district where such ship or vessel shall ride, giving immediate notice thereof to the inspectors who stamped the same. And the inspectors of that warehouse where such tobacco shall be delivered, shall receive from the persons re-landing such tobacco, twenty-five cents for every hogshead so re-landed, and shall give a receipt for the same, which money so received by the inspectors, shall be paid by them to the person or persons entitled to receive the rent of the said warehouse.

Tobacco may be re-landed or put on board other ships.

XLIX. EVERY master of a ship or vessel wherein tobacco shall be laden, shall at the time of clearing, deliver to the collector or other officer of the customs, a fair manifest of all the tobacco on board his ship or vessel, expressing the marks and numbers of every hogshead or cask, and the tare and nett weight stamped thereon, the person by whom shipped, and from what warehouse, and shall make oath thereto, and that the same is a just and true account of the marks, numbers, tare and nett weight of each respective hogshead or cask, as the same was taken down by the person or persons appointed by him to take the same before the said tobacco was stowed away; and no ship or vessel shall be cleared by the collector, or other officer of the customs, before he shall have received such list and manifest, which shall, by the said collector, or other officer of the customs, be returned, upon oath, on or before the twenty fifth day of *October*, annually, to the treasurer of this commonwealth for the time being; and every collector failing herein, shall forfeit and pay the sum of three hundred dollars for every such failure.

Masters of vessels to give in upon oath manifests of their tobacco when clearing out.

L. ALL the penalties and forfeitures in this act contained, and not herein before particularly appropriated, shall be, one moiety to the commonwealth, to be applied towards defraying the charges of the execution of this act, and the other half to the person who shall inform and sue for the same; and shall be recovered with costs, by action of debt, or information, in any court of record within this commonwealth, where the penalty exceeds five dollars, or two hundred pounds of tobacco, and where the same does not exceed those sums, before any justice of the peace of the county where the offence shall be committed.

Penalties how to be recovered.

LI. IN case any warehouses heretofore or hereafter established shall not for the space of three succeeding years receive a sufficient quantity of tobacco to pay the inspectors' salaries and rents of the warehouses, the inspection of tobacco at such warehouses respectively, shall be thenceforth discontinued; unless the same shall be supported at private expense. *Provided*, that this clause shall not extend to the discontinuance at one time of two or more warehouses, which may be in the same county, or county next adjacent; but in such cases that warehouse shall be discontinued to which the smallest quantity of tobacco may be brought.

When warehouses shall be discontinued.

LII. THE public printer shall furnish one copy of this act to the inspectors of each of the warehouses herein mentioned.

Public printer to furnish inspectors with copies of this act.

LIII. THE acting inspectors of tobacco at the several warehouses shall be, and they are hereby exempted from militia duty, except in case of actual invasion or insurrection.

Inspectors exempted from militia duty.

LIV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Former acts repealed. Proviso.

LV. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVI.

An Act declaring what shall be Treason; for punishing certain offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.†

[Passed the 28th of December, 1782.]

Preamble. What shall be deemed treason.

I. WHEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly*, That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall suffer death without benefit of clergy. *a*

Proof.

Punishment.

Other cases which shall be deemed treason.

II. ALSO every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of *Virginia*, within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government hold or execute any office, legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force. *b*

Attempt to establish a separate government within the limits of this state to be deemed a high crime and misdemeanor;

Punishment.

III. EVERY person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge. *b*

Citizens of this commonwealth committing certain crimes in foreign nations and fleeing to this state may be apprehended and surrendered to such nation.

IV. IF any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which, in the judgment of the United States in Congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in Congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed, and the United States in Congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorised to cause him to be apprehended, conveyed and delivered to such person or persons, as the United States in Congress assembled, shall prescribe. *c*

Citizens of this commonwealth committing certain crimes in any country in amity with the United States may be tried and punished as if the crime had been committed within this commonwealth.

V. IF any citizen of this commonwealth shall go out of the same into the territory of any christian nation or *Indian* tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant, directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her, or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be appre-

† *Amended ch.* 168. (*a*) *Oct.* '76, *ch.* 3, *sec.* 1. (*b*) 1785, *ch.* 10, *sec.* 2, 3. (*c*) *Oct.* '84, *ch.* 63, *sec.* 2.

hended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of by-standers, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner. *a*

Proviso as to the time of holding the examining court.

VI. WHERE sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable. *a*

Where the proof is not sufficient to convict the offender, he may be bound to his good behaviour.

VII. ALL high treasons, misprisions, and concealments of high treasons and other offences against this commonwealth, (except piracies and felonies on the high seas) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convict of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county. *b*

Certain offences committed by citizens against the commonwealth or its citizens out of the jurisdiction thereof may be enquired into and tried in general court.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as hereinafter provided) shall be, and are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Repealing clause.

Proviso.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVII.

An Act for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of Horned Cattle, and Losses from Drivers thereof passing through the Commonwealth.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same. *c*

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures.

Where the party injured, may sue for damages or destroy the beasts.

II. AND that the condition of the fence at the time the trespass committed may be proved to a Jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest house-keepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the

How the fence shall be viewed.

(a) Oct. 1784, *ch.* 63, *sec.* 3, 4 *(b)* 1786, *ch.* 46. *(c)* 1748, *ch.* 15, *sec.* 1.

complaint, and requiring them to view the fence where the treſpaſs is complained of, and to take memorandums of the ſame, and their teſtimony in ſuch caſe, ſhall be good evidence to the jury touching the lawfulneſs of the fence. *a*

Penalty for hurting beaſts in grounds not ſufficiently fenced.

III. IF any perſon damnified for want of ſuch ſufficient fence, ſhall hurt, wound, lame, kill, or deſtroy, or cauſe to be hurt, wounded, lamed, killed, or deſtroyed, by ſhooting, hunting with dogs, or otherwiſe, any of the kind or breed of horſes, cattle, sheep, hogs, or goats, he, she, or they ſo offending, ſhall pay and ſatisfy to the owner of the creature ſo hurt, wounded, lamed, killed, or deſtroyed, double damages, with coſts; recoverable as aforeſaid. *a*

Reward for taking up beaſts known to have barked fruit trees.

IV. ALL owners of horſes, mares, cattle, and other beaſts, which they know to have barked fruit trees, ſhall keep the ſame within their own fenced ground; and if any perſon ſhall take up any horſe, mare, kine, or other beaſt, known by the owner to have barked fruit trees, and ſhall deliver the ſame to ſuch owner, he or she ſhall pay the taker up, two dollars for every ſuch beaſt ſo taken up and delivered; recoverable with coſts, before any juſtice of the peace of the county wherein ſuch beaſt was taken up, or the owner lives: *Provided always*, That the taker up, ſhall, if required, make oath before the ſame juſtice, that he took up ſuch horſe, mare, or other beaſt, and that no means were uſed by himſelf or any other perſon to his knowledge, to ſet the ſame at large, otherwiſe he ſhall loſe the ſaid reward. *a*

Penalty for taking boats or other veſſels.

V. EVERY perſon who without leave of the owner ſhall take away any boat or other veſſel, ſhall, for every ſuch offence, pay ten dollars to the owner thereof, over and above the damage ſuch boat or other veſſel ſhall ſuſtain, and over and above the charge of bringing back ſuch boat or other veſſel; to be recovered with coſts, in any court of record, as aforeſaid. And if the perſon ſo treſpaſſing ſhall be a ſervant, he or she ſhall make the like ſatisfaction, by his or her ſervice, when the time due to his or her maſter, or owner, ſhall be expired. And where there ſhall be ſeveral offenders in one treſpaſs, every perſon ſhall be liable for the whole penalty. *a*

Bills of health to be produced by perſons driving cattle into or through the commonwealth.

VI. *AND be it further enacted*, That the driving of cattle into, or through the commonwealth, or any part thereof, if it be not to remove them from one plantation to another of the ſame owner, or to be uſed at his houſe, ſhall be deemed a nuiſance, unleſs the driver ſhall produce to any freeholder of a county wherein the drove is paſſing, who ſhall require it, a bill of health, ſigned by ſome juſtice of the commonwealth, containing the number of the drove, with deſcriptions of the cattle, by their ſexes, fleſh marks, and ear marks or brands, and certifying them to be free from diſtemper; or notwithſtanding he may produce ſuch bill of health, unleſs he ſhall forthwith obtain another, at the like requiſition, if any freeholder ſhall make affidavit before a juſtice, that he hath cauſe to ſuſpect ſome of the cattle to be diſtempered. Such bill of health ſhall not be given in either caſe, before two diſintereſted freeholders appointed by warrant of a juſtice, ſhall have viewed the cattle, and reported them to be free from diſtemper. A freeholder refuſing to obey ſuch warrant, ſhall be amerced by the juſtice granting ſuch warrant, in any ſum not exceeding five dollars. If the cattle appear by the report to be diſtempered, the owner may impound them, and if he refuſe to do ſo, or if he ſuffer them to eſcape from the pound, before a juſtice ſhall have certified that they may be removed without annoying others, the ſame juſtice, or ſome other to whom information ſhall be given of the fact, ſhall by his order, cauſe them to be ſlaughtered, and the carcaſes with the hides on, but ſo cut or mangled, that none may be tempted to take them up and flay them, to be buried four feet deep. Thoſe who ſhall be employed in executing ſuch orders, ſhall receive eighty-three cents for every head ſo buried, to be paid by the county wherein it ſhall happen. And every perſon appointed by the order, who ſhall refuſe or neglect to execute it, ſhall be amerced in the ſum of eighty-three cents for every head ſo directed to be buried. Every perſon ſhall ſo reſtrain his diſtempered cattle, or ſuch as are under his care, as that they may not go at large off the land to which they belong, and when they die, ſhall bury them with their hides, in manner aforeſaid; and knowingly offending in either of thoſe inſtances, ſhall be amerced in the ſum of four dollars for every head they ſhall neglect ſo to bury. *b*

How they are to be obtained.

Proceedings where the cattle are found to be diſtempered.

Owners of diſtempered cattle to confine them, and bury them when dead.

Drivers of cattle to produce manifeſts of their droves and make

VII. *And be it further enacted*, That from and after the paſſing of this act, every driver of nett cattle, ſhall, immediately after their coming into this commonwealth, go before the next juſtice of the county, and produce to him a true

(*a*) 1748, *ch.* 15, *ſec.* 4, 5, 6. (*b*) 1785, *ch.* 72. *ſec.* 1.

and perfect manifeſt, certified under the hand of a magiſtrate in the ſtate from whence they laſt came, wherein ſhall be diſtinguiſhed the ſexes, ages, marks and colours of all and every ſuch cattle, and alſo, at the ſame time, produce bills of ſale for them, and particularize the place of abode and name of the ſeller, and make oath that he knows of no more cattle in his drove, than what are mentioned in the manifeſt and bill of ſale, which oath the juſtice ſhall adminiſter, and certify on the manifeſt, and ſhall enter in a book, by him to be kept for that purpoſe, a copy of the ſaid manifeſt and certificate; and if any nett cattle ſhall be bought in this commonwealth in order to be driven into any neighbouring ſtate, the driver ſhall produce his bill of ſale to the next juſtice of the county where they ſhall be bought, and ſhall make oath that the ſaid bill is true, and that he knows of no more cattle in his drove, than what are mentioned in the ſaid bill and manifeſt, in caſe there be any, which the juſtice ſhall enter and certify in manner aforeſaid, and alſo ſhall add a deſcription of the cattle ſo bought, to the manifeſt, if any; and the like method ſhall be uſed by the drivers and juſtices in all the other counties of this commonwealth, through which they paſs, upon their arrival therein. And if any driver ſhall fail herein, he, ſhe, or they, ſhall forfeit and loſe his, her, or their whole drove of cattle: And any juſtice of the peace, upon complaint to him thereof made, is hereby empowered to iſſue his warrant to the ſheriff, or any conſtable of his county, forthwith to raiſe ſufficient force, and to ſeize the cattle, and cauſe the driver or drivers to come before him, or any other juſtice of the county, who is hereby empowered to hear the matter, and give a final judgment therein, and to order the cattle, if he ſhall judge them forfeited, to be ſold by the ſheriff in the ſame manner as goods taken in execution; and the ſheriff ſhall be allowed the ſame fee for the ſervice, and ſhall alſo be allowed for keeping and providing for the ſaid cattle, until they are ſold, after the rate of three cents *per* head for every twenty-four hours, out of the money ariſing from the ſale. But in caſe any perſon other than the driver or drivers ſo convicted, or their employers, ſhall appear before the juſtice before whom the judgment was obtained, before the cattle are ſold, and ſhall make his, her, or their property in any of them appear, the ſheriff ſhall, by order of ſuch juſtice, reſtore the ſame to ſuch owner or owners, upon payment of the charge of their keeping; or if any owner or owners ſhall within three months after the ſale, make their property appear as aforeſaid, the ſheriff ſhall pay him, her, or them, by order of the juſtice, for their cattle, according to the ſale, after deducting a proportionable part of the charges: And at the expiration of the ſaid three months, the money ariſing from the ſale ſhall be appropriated, one moiety to the overſeers of the poor of the diſtrict where the driver ſhall be convicted, for the uſe of the diſtrict, and the other moiety to him, her, or them, who did inform or proſecute, and ſhall be paid them by the ſheriff accordingly; and the ſheriff ſhall return an account of the ſales to the clerk's office, to be lodged among the records of the county. *a*

oath thereto.

Proceedings againſt them for failure of the duties hereby enjoined.

VIII. *PROVIDED always*, That nothing herein contained, ſhall be conſtrued to extend to any of the inhabitants of this commonwealth who ſhall buy any nett cattle, and be driving them home, or to any perſons coming with their families and ſtocks to ſettle in this commonwealth. *a*

Proviſo as to driving cattle in certain caſes.

IX. ALL and every act or acts, coming within the purview of this act, ſhall be, and the ſame are hereby repealed. *Provided always*, That nothing in this Act ſhall be conſtrued to affect any rights, remedies, fines, forfeitures, or penalties, which have accrued, been veſted, or incurred, prior to the commencement of this act.

Repealing clauſe. Proviſo.

X. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

CHAP. CXXXVIII.

An Act for the effectual Suppreſſion of Vice, and puniſhing the Diſturbers of Religious Worſhip and Sabbath Breakers.

[Paſſed the 25th of December, 1792.]

I. BE *it enacted by the General Aſſembly*, That if any perſon or perſons ſhall be profanely ſwear or curſe, or ſhall be drunk, he, ſhe, or they ſo offending, for every ſuch offence, being thereof convicted by the oath of one or more witneſſes (which oath any juſtice of the peace is hereby empowered and

Puniſhment for profane ſwearing, curſing, or drunkenneſs.

(*a*) 1748, *ch.* 34, *ſec.* 2, 3.

required to administer) or by confession before one or more justice or justices of the peace in the county or corporation, where such offence shall be committed, shall forfeit and pay the sum of eighty-three cents for every such offence; or if the offence or offences be committed in the presence and hearing of one or more justice or justices of the peace, or in any court of record in this commonwealth, the same shall be a sufficient conviction without any other evidence, and the said offender shall upon such conviction forfeit and pay the sum of eighty-three cents for every such offence; and if any person or persons shall refuse to make present payment, or give sufficient security for the payment of the same in a reasonable time, not exceeding six months, then the said fines and penalties shall be levied upon the goods of such person or persons by warrant or precept from any justice of the peace, before whom such conviction shall be, which warrant may be directed to the sheriff of the county, or to the constable in his respective precinct, or to the serjeant of a corporation, to be appraised and valued as in other distresses; and if the offender or offenders be not able to pay the said sum or sums, then he, she, or they, shall have and receive ten lashes upon his or her bare back, well laid on, for every such offence. *a*

Prosecution in two months.

II. *PROVIDED always*, That every prosecution by virtue of this act for swearing, cursing, or for being drunk, shall be made within two months after the offence committed and not afterwards. *a*

No licensed minister to be arrested while performing divine service.

III. NO officer for any civil cause shall arrest any minister of religion licensed according to the rules of his sect, and who shall have taken the oath or affirmation of fidelity to the commonwealth, while such minister shall be publicly preaching or performing religious worship, in any church, meeting-house, or other place of religious worship, on pain of imprisonment and amercement, at the discretion of a jury, and of making satisfaction to the party so arrested. *b*

Any person disturbing a congregation, shall be arrested and bound to good behaviour.

IV. AND if any person shall on purpose, maliciously or contemptuously, disquiet or disturb any congregation assembled in any church, meeting-house, or other place of religious worship, or misuse any such minister being there, he may be put under restraint during religious worship by any justice present, which justice being present, or if none be present, then any justice before whom proof of the offence shall be made, may cause the offender to find two securities to be bound by recognizance in a sufficient penalty for his good behaviour, and in default thereof shall commit him to prison, there to remain till the next court to be held for the same county or corporation, and upon conviction of the said offence before the said court, he shall be further punished by imprisonment and amercement, at the discretion of a jury.

And may be punished by fine and imprisonment.

Penalty for labouring on Sunday.

V. IF any person on a sabbath day shall himself be found labouring at his own, or any other trade, or calling, or shall employ his apprentices, servants, or slaves in labour, or other business, except it be in the ordinary household offices of daily necessity, or other work of necessity or charity, he shall forfeit the sum of one dollar and sixty-seven cents for every such offence, deeming every apprentice, servant, or slave, so employed, and every day he shall be so employed, as constituting a distinct offence.

Punishment for adultery or fornication.

VI. EVERY person not being a servant or slave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witnesses, or confession of the party, shall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars; to be recovered by the suit or prosecution of the overseers of the poor of the county or corporation, wherein such offence shall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no essoin, protection, or wager of law shall be allowed; which said fines and penalties shall accrue to the overseers of the poor for the use of the poor of the county or corporation, wherein the said offence shall be committed. *c*

Repealing clause.

VII. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, (except as is herein after provided) shall be, and the same are hereby repealed. *Provided always*, that nothing in this act contained, shall be construed to repeal any act heretofore made, for so much thereof as may relate to any offence committed or done before the commencement of this act.

Proviso.

Commencement of this act.

VIII. THIS act shall commence and be in force, from and after the passing thereof.

(a) 1705, *ch.* 6, *sec.* 1, 5. *(b)* 1786, *ch.* 54. *(c)* 1705, *ch.* 6, *sec.* 8.

CHAP. CXXXIX.

An Act concerning Waſte.

[Paſſed the 26th of December, 1792.]

Forfeitures incurred by tenant for life or years committing waſte.

I. BE *it enacted by the General Aſſembly*, That if any tenant by the curteſy, tenant in dower, or otherwiſe for term of life or years, ſhall commit waſte during their ſeveral eſtates or terms, of the houſes, woods, or any other thing belonging to the tenants ſo held without ſpecial licenſe in writing ſo to do, they ſhall be ſubject reſpectively to an action of waſte, and ſhall moreover loſe the thing waſted, and recompence the party injured in three times the amount at which the waſte ſhall be aſſeſſed. *a*

II. IN caſe any of the ſaid tenants ſhall aliene their eſtate, and notwithſtanding retain poſſeſſion of the ſame and commit waſte, he in the reverſion ſhall be entitled to his action of waſte, and likewiſe recover againſt them the place waſted, and treble damages. *b*

Action of waſte by tenant in common.

III. IF one tenant in common ſhall commit waſte of the eſtate held in common, he ſhall be ſubject to an action of waſte at the ſuit of the other tenant or tenants in common. *c*

By heirs.

IV. AN action of waſte ſhall be maintainable by the heir, whether within or of full age, for waſte done in the time of his anceſtor, as well as in his own time. *d*

V. IF tenant for life commit waſte, and he in the reverſion brings his action of waſte and dieth before judgment, his heir may bring an action of waſte for the ſame. *d*

By wards againſt their guardians.

VI. IF a guardian ſhall commit waſte of the eſtate of his ward, ſuch ward when he attains his full age ſhall have his action to recompenſe him for the injury. *e*

Proceſs in actions of waſte.

VII. THE proceſs in an action of waſte, ſhall be ſummons, attachment, and diſtreſs, and if the defendant appear not upon the diſtreſs, the waſte ſhall nevertheleſs be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act. *f*

Tenant not to commit waſte pending the action.

VIII. AFTER the commencement of any ſuit in any court of this commonwealth, the tenant ſhall have no power to commit waſte or eſtrepement of the land in demand, whilſt ſuch ſuit is depending; and if he do the ſheriff ſhall be commanded to keep the ſame at the ſuit of the plaintiff. *g*

Commencement of this act.

IX. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXL.

An Act concerning Weights and Meaſures.

[Paſſed the 26th of December, 1792.]

preamble.

I. WHEREAS the General Aſſembly of *Virginia*, at their ſeſſion in the year one thouſand ſeven hundred and thirty-four, did paſs an act, intituled, "*An act for more effectually obliging perſons to buy and ſell by weights and meaſures, according to the* Engliſh *ſtandard.*"

Act of 1734 to be in force until Congreſs makes ſome proviſion on the ſubject.

II. *BE it therefore enacted by the General Aſſembly*, That the ſaid act ſhall continue and remain in force, until the Congreſs of the United States ſhall have made proviſion on that ſubject.

Proviſo as to appropriation of the penalties.

III. *PROVIDED always*, That all fines, forfeitures and penalties in the ſaid act mentioned, ſhall be and enure, one moiety to the commonwealth, and the other to the uſe of the informer.

Commencement of this act.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

(*a*) 52, *H.* 3, *ch.* 23. 6 *Edw'd* 1, *ch.* 5. (*b*) 11 *H.* 6, *ch.* 5. (*c*) 13 *Edw'd* 1, *ch.* 22. (*d*) 20, *Edw'd* 1, *ch.* 2. (*e*) 9 *H.* 3, *ch.* 4 & 5. (*f*) 13 *Edw'd* 1, *ch.* 14. (*g*) 6 *Edw'd* 1, *ch.* 13.

CHAP. CXLI.

An Act concerning Witnesses, and prescribing the Manner of obtaining and executing Commissions for taking their Depositions in certain Cases.

[Passed the 29th of November, 1792.]

Who shall not be admitted as witnesses.

I. BE *it enacted by the General Assembly*, That no person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

II. NO person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

III. NO negro, mulatto or *Indian*, shall be admitted to give evidence, but against or between negroes, mulattoes or *Indians*.

Witnesses failing to attend may be fined, and liable to action of the party.

IV. IF any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the *subpœna* issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

Refusing to testify, how to be dealt with.

V. IF any person so summoned and attending in any of the causes abovementioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorised to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence.

Their privilege.

VI. WITNESSES shall be privileged from arrests† in all cases except treason, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance shall by *subpœna* first duly executed by a sworn officer, or by some indifferent person who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode. Proviso.

Provided always, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any *subpœna*, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such *subpœna* expressed.

How to be summoned.

VII. IN all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees, or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any *subpœna* or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found.

Allowance for attending county courts, referees, surveys, &c.

VIII. EVERY witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents *per* day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts. ‡

† *See ch.* 80, *sec.* 16, *whereby witnesses and some others are also privileged in certain cases, unless guilty of the offences in this clause, or of a riot, or have escaped out of prison or custody.* ‡ *By act of Dec. Sess.* 1800, *ch.* 44, *witnesses summoned to attend out of their county in criminal prosecutions, allowed for attendance &c. per as witnesses attending the District Court.*

For attending the superior courts.

IX. EVERY witneſs ſo ſummoned and attending the court of appeals, high court of chancery, general court, or any diſtrict court, ſhall be paid by the party at whoſe ſuit the ſummons iſſued, four cents *per* mile for travelling to the places of attendance, and the ſame for returning, beſides ferriages, and one dollar and four cents *per* day for his attendance, which allowance ſhall be entered by the clerk of courſe, except where diſputes ariſe concerning the ſame, and then ſuch diſputes ſhall be determined by the court. Witneſſes in all caſes, as well civil as criminal, ſhall be ſworn as to their travelling, ferriages and attendance, for which purpoſe the clerk or ſome of his aſſiſtants ſpecially empowered by the court, or the commiſſioners, referees, or ſurveyor, as the caſe may be, ſhall adminiſter the oaths.

For attending in ſeveral ſuits at the ſame time.

X. NO witneſs ſhall be permitted to charge his attendance in more than one ſuit at the ſame time, but if he be ſummoned to attend in ſeveral ſuits, he may charge his attendance to either of the parties by whom he ſhall be ſummoned at his election.

Charge allowed of only three witneſſes to one fact.

XI. THERE ſhall not be allowed in the bill of coſts the charge of more than three witneſſes for the proof of any one particular fact.

Commiſſions for their examination how to be obtained, when a witneſs is about to leave the country, or is unable to attend.

XII. WHEN any witneſs ſhall be about to depart the country, or by age, ſickneſs or otherwiſe ſhall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any juſtice of the peace, the clerk of the court in which any ſuit is or ſhall be depending, may, on requeſt of either party, award a commiſſion for taking the depoſition of ſuch witneſs *de bene eſſe*, to be read as evidence at the trial, in caſe the witneſs ſhould be unable to attend; but the party obtaining ſuch commiſſion, ſhall give reaſonable notice to the other party, of the time and place of taking the depoſition, otherwiſe the ſame ſhall be void. †

When a witneſs reſides beyond ſea, or in any foreign country.

XIII. UPON affidavit that any witneſs reſides beyond ſea, or in any foreign country, or in any other of the United States, the court wherein the ſuit is depending, may, on requeſt of either party, direct a commiſſion to iſſue from the clerk's office, directed to ſuch commiſſioners, not exceeding five, as ſhall be nominated and agreed upon by the parties litigant; for which purpoſe the party applying for a commiſſion in ſuch caſes, ſhall give the adverſe party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commiſſion ſhall iſſue, and if the adverſe party, his attorney or agent ſhall not attend for the purpoſe, in that caſe, the party praying the commiſſion may nominate the commiſſioners himſelf, any three of whom in either caſe may proceed to execute the ſaid commiſſion. *Provided nevertheleſs*, That in either caſe, reaſonable notice ſhall be given to the adverſe party, of the time and place of taking ſuch depoſition, and the coſts of giving notice as aforeſaid, as well as of taking any depoſition or depoſitions in any or either of the United States, or beyond ſea, or in any foreign country, may be taxed by the court againſt the party, who in their opinion, ought in juſtice to pay the ſame.

When a claim or defence depends on a ſingle witneſs.

XIV. IF any party in any ſuit at common law or in chancery, ſhall make oath, that he verily believes his claim or defence (as the caſe may be) or a material point thereof depends on a ſingle witneſs, the court, or the clerk in vacation, may award a commiſſion to take the depoſition of ſuch witneſs *de bene eſſe*, although he or ſhe be not about to depart the country, nor under any diſability, the party in ſuch caſe, giving reaſonable notice of the time and place of taking ſuch depoſition to the adverſe party.

Where a witneſs to a will reſides out of the ſtate.

XV. WHEN any will ſhall be produced to any court having juriſdiction in the caſe of ſuch will, for probat, and any witneſs or witneſſes atteſting the ſame ſhall reſide out of this commonwealth, it ſhall be lawful for ſuch court to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding judge of any court of law, to any notary public, mayor, or other chief magiſtrate of any city, town, corporation, or county, or to ſuch other perſon or perſons as by laws of ſuch country, where ſuch witneſs or witneſſes may be found, are duly authoriſed to adminiſter an oath, empowering him or them to take and certify their atteſtations. If the perſon to whom ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him or them, that the witneſs or witneſſes perſonally appeared before him or them, and made oath, or affirmed, as the caſe may require, that the teſtator ſigned and

† *By act of 1799. ch. 8, clerk, are allowed to adminiſter oaths for foundation of an affidavit by them.*

publiſhed the writing annexed to ſuch commiſſion, as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction; that he was of diſpoſing mind and memory, and that he or they ſubſcribed their names thereto in his preſence, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the court from whence ſuch commiſſion iſſued.

XVI. AND whereas great inconvenience may ariſe to the ſuitors in the ſeveral courts of this commonwealth, who are litigant with perſons reſiding without this commonwealth, and have not agents or attornies within the ſame, by the death or removal of witneſſes, whoſe depoſitions cannot legally be taken for want of notice to ſuch abſent perſons:

How notice is to be given where one of the parties lives out of the ſtate and has no agent therein.

XVII. *BE it therefore enacted*, That when any commiſſion ſhall be obtained, to take the depoſition of a witneſs in a ſuit depending in any of the courts of this commonwealth, where the plaintiff or defendant in ſuch ſuit doth not reſide within the ſame, or hath not an agent or attorney within the ſame, to whom notice of the time and place of taking ſuch depoſition can be given, then the perſon obtaining ſuch commiſſion, having publiſhed in the *Virginia* Gazette, or in any other public newſpaper printed within this commonwealth, four weeks ſucceſſively, the time and place, when and where, the witneſs is to be examined, and the name of the witneſs, together with the names of the parties to the ſuit in which ſuch witneſs is to be examined, it ſhall and may be lawful for any plaintiff or defendant as aforeſaid, to proceed to take any depoſition authoriſed by the commiſſion iſſuing from the court agreeable to law, where the ſuit depends as aforeſaid; and ſuch depoſition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commiſſion iſſued, ſhall there be filed and allowed to be read in evidence in the ſame manner, and under the like reſtrictions as if notice had been duly given to the oppoſite party; any law, uſage, or cuſtom, to the contrary in any wiſe notwithſtanding: and the printer may demand and receive the ſum of two dollars for publiſhing ſuch advertiſement four weeks, which ſhall be taxed in the bill of coſts, if the party chargeable therewith ſhall prevail in the ſuit.

Repealing clauſe.

XVIII. ALL and every act and acts, clauſes and parts of acts, for, or concerning any matter or thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

Commencement of this Act.

XIX. THIS act ſhall commence in force, from and after the paſſing thereof.

CHAP. CXLII.

An Act concerning ſtealing Tobacco on the Highways.

[Paſſed the 15th of December, 1792.]

Felony to ſteal tobacco on the highway.

I. BE *it enacted by the General Aſſembly*, That all and every perſon and perſons, that ſhall at any time after the commencement of this act, either in the night or day, take, ſteal and carry away, any hogſhead or caſk of tobacco, which ſhall be lying on or near any public highway, or any part of the tobacco contained in the ſame hogſhead or caſk, although the ſaid hogſhead or caſk may not be in the poſſeſſion of the owner thereof, ſhall be adjudged a felon, and be puniſhed as in other caſes of felony.

Commencement of this Act.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXLIII.

An Act declaring what Remedy the Commonwealth ſhall have in certain Caſes.

[Paſſed the 25th of December, 1792.]

Actions on the caſe may be brought againſt public debtors for recovery of money, &c. due to the commonwealth.

I. BE *it enacted*, That whenſoever any perſon or perſons heretofore have, or hereafter may receive, any ſum or ſums of money or tobacco, or any kind of public ſecurities whatſoever, which of right do or ſhall appertain to this commonwealth, and ſuch perſon or perſons ſhall refuſe or neglect to pay ſuch money, tobacco, or public ſecurities, or any part thereof, to ſuch officer of this commonwealth, to whom by law the ſame ought to be paid; then and in that caſe it ſhall and may be lawful for the governor, with the advice of the council of ſtate, to inſtitute an action upon the caſe againſt ſuch perſon or per-

sons, their executors or administrators, for money, tobacco, or public securities, (as the case may be) had and received to the use of the commonwealth; which action shall be instituted in the name of the governor for the time being, and his successors, for the use of the commonwealth, and shall not abate by the death, resignation, or removal from office of the governor, in whose name it shall be brought.

No official bond to be pleaded in abatement of bar thereof.

II. WHERE such suit shall be brought against any public officer, such officer shall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLIV.

An Act for appointing Public Notaries.

[Passed the 27th of December, 1792.]

Preamble.

I. WHEREAS it will be for the ease and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries should be appointed:

Public notaries, how to be appointed.

II. *BE it therefore enacted*, That the governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint so many notaries public as to him shall seem necessary; and upon the death, resignation, or removal of any such notaries public, to appoint others in his or their room; which said notaries public shall hold their respective offices during good behaviour, and shall use and exercise the said office of notary public for such places, and within such limits and precincts as the governor and council shall direct, to whose protestations, attestations and other instruments of publication due credence is hereby given. *Provided nevertheless*, That every notary public shall previous to his executing the said office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due discharge of his said office; and shall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and also an oath that he will without favor of partiality, honestly, diligently and faithfully discharge the duties of a notary public.

To give bond and security, and take oaths of fidelity and of office.

Their fees.

III. *AND be it further enacted*, That every public notary shall and may demand and receive for recording in a book to be kept for that purpose, each attestation, protestation, and all other instruments of publication, the sum of eighty-three cents and no more.

Commencement of this act.

IV. THIS act shall commence in force, from and after the passing thereof.

CHAP. CXLV.

An Act to empower Securities to recover Damages in a Summary Way.†

[Passed the 27th of December, 1792.]

Summary remedy for securities in notes or obligations against their principals.

I. BE *it enacted*, That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record within this commonwealth, against any person or persons as security or securities, their heirs, executors, or administrators, upon any note, bill, bond, or obligation, and the amount of such judgment, or any part thereof hath been paid or discharged by such security or securities, his, her, or their heirs, executors or administrators, it shall and may be lawful for such security or securities, his, her, or their executors or administrators, to obtain judgment by motion against such principal obligor or obligors, his, her, or their heirs, executors or administrators, for the full amount of what shall have been paid by the security or securities, his, her, or their executors or administrators, in any court where such judgment may have been entered up against such security or securities, his, her, or their heirs, executors or administrators. *a*

For one security against another jointly bound with him.

II. *AND be it further enacted*, That where the principal obligor or obligors, have or hereafter shall become insolvent, and there have been, or shall be

† *Amended chs.* 174 *and* 175. (*a*) 1786, *ch.* 15.

CHAP. CXXXVI.

An Act declaring what shall be Treason; for punishing certain offences injurious to the Tranquility of the Commonwealth; and concerning Felonies and Offences committed out of the Jurisdiction of the same.†

[Passed the 26th of December, 1792.]

Preamble. What shall be deemed treason.

I. WHEREAS divers opinions may be what case shall be adjudged treason, and what not: *Be it enacted by the General Assembly*, That if a man do levy war against this commonwealth in the same, or be adherent to the enemies of the commonwealth within the same, giving to them aid and comfort in the commonwealth or elsewhere, and thereof be legally convicted of open deed by the evidence of two sufficient and lawful witnesses, or their own voluntary confession, the cases above rehearsed, shall be judged treason, which extendeth to the commonwealth; and the person so convicted, shall suffer death without benefit of clergy. *a*

Proof.

Punishment.

Other cases which shall be deemed treason.

II. ALSO every person or persons who shall erect or establish, or cause or procure to be erected or established, any government separate from, or independent of the government of *Virginia*, within the limits thereof, unless by act of the legislature of this commonwealth for that purpose first obtained; or who shall in any such usurped government hold or execute any office, legislative, executive, judiciary, or ministerial, by whatever name such office may be distinguished or called; or who shall swear or otherwise solemnly profess allegiance or fidelity to the same; or who shall under pretext of authority derived from, or protection afforded by such usurped government, resist or oppose the due execution of the laws of this commonwealth, shall be adjudged guilty of high treason, and shall be proceeded against and punished in the same manner as other traitors may be proceeded against and punished by the laws now in force. *b*

Attempt to establish a separate government within the limits of this state to be deemed a high crime and misdemeanor;

Punishment.

III. EVERY person who shall attempt to establish such government by any other means than with the assent of the legislature of this commonwealth, and in pursuance of such attempts, shall join with any other person or persons, in any overt act for promoting such attempts, or who shall by writing or advised speaking, endeavour to instigate the people of this commonwealth to erect or establish such government without such assent as aforesaid, shall be adjudged guilty of a high crime and misdemeanor, and on conviction, shall be subject to such pains and penalties, not extending to life or member, as the court before whom the conviction shall be, shall adjudge. *b*

Citizens of this commonwealth committing certain crimes in foreign nations and fleeing to this state may be apprehended and surrendered to such nation.

IV. IF any citizen or inhabitant of this commonwealth, shall go beyond the limits of the United States, within the acknowledged jurisdiction of any civilized nation, in amity with the United States, and shall within the same commit any crime, for which, in the judgment of the United States in Congress assembled, the law of nations or any treaty between the United States and a foreign nation, require him to be surrendered to the offended nation, and shall thereafter flee within the limits of this commonwealth, and the sovereign of the offended nation shall exhibit to the United States in Congress assembled, due and satisfactory evidence of the crime, with a demand of the offender to be tried and punished where the same was committed, and the United States in Congress assembled, shall thereupon notify such demand to the executive of this state, and call for the surrender of such offender, the governor with the advice of the council of state, is hereby authorised to cause him to be apprehended, conveyed and delivered to such person or persons, as the United States in Congress assembled, shall prescribe. *c*

Citizens of this commonwealth committing certain crimes in any country in amity with the United States may be tried and punished as if the crime had been committed within this commonwealth.

V. IF any citizen of this commonwealth shall go out of the same into the territory of any christian nation or *Indian* tribe, in amity with the United States, and shall there commit murder, house burning, robbery, theft, trespass, or other crime, which if committed within this commonwealth, would be punishable by the laws thereof, it shall and may be lawful for any justice of the peace on proof of such offence by the oath of one or more credible witness or witnesses, to issue his warrant, directed to all sheriffs, under sheriffs and constables within this commonwealth, commanding them and each of them within their respective counties and precincts, to apprehend such offender or offenders, and him, her, or them to bring before such justice, or any other justice of the peace in the same county, or in the county where the offender may be appre-

† *Amended ch.* 168. (*a*) *Oct.* '76, *ch.* 3, *sec.* 1. (*b*) 1785, *ch.* 10, *sec.* 2, 3. (*c*) *Oct.* '84, *ch.* 63, *sec.* 2.

hended; and such offender or offenders shall be subject to the same punishment, and shall be dealt with in the same manner as if the offence with which he, she, or they stand charged, had been committed within the body of some county of this commonwealth; and such offenders may be tried by a jury of by-standers, qualified by law to serve on juries in capital cases: *Provided also*, That it shall and may be lawful for the magistrate committing such offender (if the circumstances of the case shall render it absolutely necessary) to appoint the time for holding a court for the examination of such offenders at a more distant period than the law allows with regard to other criminals, provided the same be held within thirty days after the commitment of the prisoner. *a*

Proviso as to the time of holding the examining court.

VI. WHERE sufficient proof shall not appear to the court before whom such offender shall be examined, to convict him or her of the charge, it shall and may be lawful for such court (if the circumstances of the case shall, in the opinion of the court require it) to bind such offender to his or her good behaviour, in such sum and for such time as the said court shall judge reasonable. *a*

Where the proof is not sufficient to convict the offender, he may be bound to his good behaviour.

VII. ALL high treasons, misprisions, and concealments of high treasons and other offences against this commonwealth, (except piracies and felonies on the high seas) committed by any citizen of this commonwealth, in any place out of the jurisdiction of the courts of common law in this commonwealth, and all felonies committed by citizen against citizen in any such place other than the high seas, shall be enquired into, heard, determined, and judged in the general court, in the same manner as offences committed within the body of a county are triable in a district court; and such as shall be convict of any such offence, shall suffer such pains, penalties, judgment, and execution, as if they had been attainted and convicted of such offence done within the body of a county. *b*

Certain offences committed by citizens against the commonwealth or its citizens out of the jurisdiction thereof may be enquired into and tried in general court.

VIII. ALL and every statute and statutes, act and acts, clause or clauses thereof, within the purview of this act, (except as hereinafter provided) shall be, and are hereby repealed: *Provided always*, that nothing in this act contained shall be construed to repeal the said statutes or acts, for so much thereof as relates to any offence within the purview thereof, committed or done before the commencement of this act.

Repealing clause.

Proviso.

IX. THIS act shall commence and be in force, from and after the passing thereof.

Commencement of this act.

CHAP. CXXXVII.

An Act for preventing Trespasses; declaring what shall be deemed a lawful Inclosure; for preventing Infection of Horned Cattle, and Losses from Drivers thereof passing through the Commonwealth.

[Passed the 26th of December, 1792.]

I. BE *it enacted by the General Assembly*, That if any horses, mares, cattle, hogs, sheep, or goats, shall break into any grounds being inclosed with a strong and sound fence, five feet high, and so close that the beasts breaking into the same, could not creep through, or with an hedge two feet high, upon a ditch three feet deep, and three feet broad, or instead of such hedge, a rail fence of two feet and an half high, the hedge or fence being so close that none of the creatures aforesaid can creep through, which shall be accounted a lawful fence, the owner of such horses, mares, cattle, hogs, sheep, or goats, or any one of them, shall for the first trespass so committed, make reparation to the party injured, for the true value of the damage he shall sustain, and for every trespass afterwards, double damages; to be recovered with costs, in any court of record: *Provided*, That for a third offence, for any one of the beasts aforesaid breaking into such inclosures, it shall be at the election of the party injured, to sue for his damages, or to kill and destroy the beasts so trespassing, without being answerable for the same. *c*

What shall be a lawful fence.

Penalty on the owners of beasts breaking such inclosures.

Where the party injured, may sue for damages or destroy the beasts.

II. AND that the condition of the fence at the time the trespass committed may be proved to a Jury upon trial, *Be it enacted*, That upon complaint made by the party injured, before any justice of the peace of that county wherein such trespass shall be, such justice is hereby empowered and required to issue his order without delay, to three honest house-keepers of the neighbourhood, no ways related to the party injured, nor interested concerning the trespass, reciting the

How the fence shall be viewed.

(a) Oct. 1784, *ch.* 63, *sec.* 3, 4 *(b)* 1786, *ch.* 46. *(c)* 1748, *ch.* 15, *sec.* 14

ments, then and there to divide their respective counties into districts, for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off, shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively herein after to be appointed.

Companies to be divided into divisions.

X. *AND be it further enacted*, That it shall be the duty of the commanding officer of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Persons exempted from militia duty.

XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors, and students at the college of *William* and *Mary*, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

XII. AND whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result:

A company of grenadiers, light infantry, or riflemen, to be annexed to each battalion.

XIII. *BE it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each battalion, out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry, or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.*

A company of cavalry, and a company of artillery, to be annexed to each division.

XIV. *AND be it further enacted*, That the governor with the advice of council, shall, and he is hereby empowered to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorised and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company to be denominated

* *So much of this clause as declares that the men shall be from* 18 *to* 25 *years of age, repealed, ch.* 152, *sec.* 19.

the company of cavalry. *Provided*, That the number of companies of artillery and of cavalry, shall not exceed one for each brigade. Proviso.

XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:— Oaths of office.

I do swear that I will be faithful and true to the commonwealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the regiment of the militia of* Virginia, *according to the best of my skill and judgment:* So help me GOD."

XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act. Adjutant-general may convene brigade majors and inspectors.

XVII. THERE shall be a private muster of each company of grenadiers, light infantry, riflemen, artillery and cavalry once in every two months, except in the months of *December*, *January*, and *February* in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at, or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of *May*, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion; and a muster of each regiment in the month of *October*, in every year, to be appointed by the brigadier-general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters, the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of the companies shall give notice of the regimental, battalion, and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies, at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing, shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster, to the commanding officer of his battalion, including those which may occur on that day. And

Musters of the companies.

Of the battalions;

Of the regiments;

Notice of them, by whom, and how to be given.

Penalties on officers, and serjeants failing to give notices.

Rolls to be called, and delinquencies noted.

required to adminiſter) or by confeſſion before one or more juſtice or juſtices of the peace in the county or corporation, where ſuch offence ſhall be committed, ſhall forfeit and pay the ſum of eighty-three cents for every ſuch offence; or if the offence or offences be committed in the preſence and hearing of one or more juſtice or juſtices of the peace, or in any court of record in this commonwealth, the ſame ſhall be a ſufficient conviction without any other evidence, and the ſaid offender ſhall upon ſuch conviction forfeit and pay the ſum of eighty-three cents for every ſuch offence; and if any perſon or perſons ſhall refuſe to make preſent payment, or give ſufficient ſecurity for the payment of the ſame in a reaſonable time, not exceeding ſix months, then the ſaid fines and penalties ſhall be levied upon the goods of ſuch perſon or perſons by warrant or precept from any juſtice of the peace, before whom ſuch conviction ſhall be, which warrant may be directed to the ſheriff of the county, or to the conſtable in his reſpective precinct, or to the ſerjeant of a corporation, to be appraiſed and valued as in other diſtreſſes; and if the offender or offenders be not able to pay the ſaid ſum or ſums, then he, ſhe, or they, ſhall have and receive ten laſhes upon his or her bare back, well laid on, for every ſuch offence. *a*

Proſecution in two months.

II. *PROVIDED always*, That every proſecution by virtue of this act for ſwearing, curſing, or for being drunk, ſhall be made within two months after the offence committed and not afterwards. *a*

No licenſed miniſter to be arreſted while performing divine ſervice.

III. NO officer for any civil cauſe ſhall arreſt any miniſter of religion licenſed according to the rules of his ſect, and who ſhall have taken the oath or affirmation of fidelity to the commonwealth, while ſuch miniſter ſhall be publicly preaching or performing religious worſhip, in any church, meeting-houſe, or other place of religious worſhip, on pain of impriſonment and amercement, at the diſcretion of a jury, and of making ſatisfaction to the party ſo arreſted. *b*

Any perſon diſturbing a congregation, ſhall be arreſted and bound to good behaviour.

IV. AND if any perſon ſhall on purpoſe, maliciouſly or contemptuouſly, diſquiet or diſturb any congregation aſſembled in any church, meeting-houſe, or other place of religious worſhip, or miſuſe any ſuch miniſter being there, he may be put under reſtraint during religious worſhip by any juſtice preſent, which juſtice being preſent, or if none be preſent, then any juſtice before whom proof of the offence ſhall be made, may cauſe the offender to find two ſecurities to be bound by recognizance in a ſufficient penalty for his good behaviour, and in default thereof ſhall commit him to priſon, there to remain till the next court to be held for the ſame county or corporation, and upon conviction of the ſaid offence before the ſaid court, he ſhall be further puniſhed by impriſonment and amercement, at the diſcretion of a jury.

And may be puniſhed by fine and impriſonment.

Penalty for labouring on Sunday.

V. IF any perſon on a ſabbath day ſhall himſelf be found labouring at his own, or any other trade, or calling, or ſhall employ his apprentices, ſervants, or ſlaves in labour, or other buſineſs, except it be in the ordinary houſehold offices of daily neceſſity, or other work of neceſſity or charity, he ſhall forfeit the ſum of one dollar and ſixty-ſeven cents for every ſuch offence, deeming every apprentice, ſervant, or ſlave, ſo employed, and every day he ſhall be ſo employed, as conſtituting a diſtinct offence.

Puniſhment for adultery or fornication.

VI. EVERY perſon not being a ſervant or ſlave committing adultery, or fornication, and being thereof lawfully convicted by the oaths of two or more credible witneſſes, or confeſſion of the party, ſhall for every offence of adultery, forfeit and pay twenty dollars, and for every offence of fornication ten dollars; to be recovered by the ſuit or proſecution of the overſeers of the poor of the county or corporation, wherein ſuch offence ſhall be committed, by bill, plaint, or information, in any court of record within this commonwealth, wherein no eſſoin, protection, or wager of law ſhall be allowed; which ſaid fines and penalties ſhall accrue to the overſeers of the poor for the uſe of the poor of the county or corporation, wherein the ſaid offence ſhall be committed. *c*

Repealing clauſe.

Proviſo.

VII. ALL and every act and acts, clauſe and clauſes of acts, containing any thing within the purview of this act, (except as is herein after provided) ſhall be, and the ſame are hereby repealed. *Provided always*, that nothing in this act contained, ſhall be conſtrued to repeal any act heretofore made, for ſo much thereof as may relate to any offence committed or done before the commencement of this act.

Commencement of this act.

VIII. THIS act ſhall commence and be in force, from and after the paſſing thereof.

(a) 1705, *ch.* 6, *ſec.* 1, 3. *(b)* 1786, *ch.* 34. *(c)* 1705, *ch.* 6, *ſec.* 8.

CHAP. CXXXIX.

An Act concerning Waſte.

[Paſſed the 26th of December, 1792.]

Forfeitures incurred by tenant for life or years committing waſte.

I. BE *it enacted by the General Aſſembly*, That if any tenant by the curteſy, tenant in dower, or otherwiſe for term of life or years, ſhall commit waſte during their ſeveral eſtates or terms, of the houſes, woods, or any other thing belonging to the tenants ſo held without ſpecial licenſe in writing ſo to do, they ſhall be ſubject reſpectively to an action of waſte, and ſhall moreover loſe the thing waſted, and recompence the party injured in three times the amount at which the waſte ſhall be aſſeſſed. *a*

II. IN caſe any of the ſaid tenants ſhall aliene their eſtate, and notwithſtanding retain poſſeſſion of the ſame and commit waſte, he in the reverſion ſhall be entitled to his action of waſte, and likewiſe recover againſt them the place waſted, and treble damages. *b*

Action of waſte by tenant in common.

III. IF one tenant in common ſhall commit waſte of the eſtate held in common, he ſhall be ſubject to an action of waſte at the ſuit of the other tenant or tenants in common. *c*

By heirs.

IV. AN action of waſte ſhall be maintainable by the heir, whether within or of full age, for waſte done in the time of his anceſtor, as well as in his own time. *d*

V. IF tenant for life commit waſte, and he in the reverſion brings his action of waſte and dieth before judgment, his heir may bring an action of waſte for the ſame. *d*

By wards againſt their guardians.

VI. IF a guardian ſhall commit waſte of the eſtate of his ward, ſuch ward when he attains his full age ſhall have his action to recompenſe him for the injury. *e*

Proceſs in actions of waſte.

VII. THE proceſs in an action of waſte, ſhall be ſummons, attachment, and diſtreſs, and if the defendant appear not upon the diſtreſs, the waſte ſhall nevertheleſs be enquired of by a verdict of a jury, and the court proceed to judgment according to the directions of this act. *f*

Tenant not to commit waſte pending the action.

VIII. AFTER the commencement of any ſuit in any court of this commonwealth, the tenant ſhall have no power to commit waſte or eſtrepement of the land in demand, whilſt ſuch ſuit is depending; and if he do the ſheriff ſhall be commanded to keep the ſame at the ſuit of the plaintiff. *g*

Commencement of this act.

IX. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXL.

An Act concerning Weights and Meaſures.

[Paſſed the 26th of December, 1792.]

Preamble.

I. WHEREAS the General Aſſembly of *Virginia*, at their ſeſſion in the year one thouſand ſeven hundred and thirty-four, did paſs an act, intituled, "*An act for more effectually obliging perſons to buy and ſell by weights and meaſures, according to the* English *ſtandard.*"

Act of 1734 to be in force until Congreſs makes ſome proviſion on the ſubject.

II. *BE it therefore enacted by the General Aſſembly*, That the ſaid act ſhall continue and remain in force, until the Congreſs of the United States ſhall have made proviſion on that ſubject.

Proviſo as to appropriation of the penalties.

III. *PROVIDED always*, That all fines, forfeitures and penalties in the ſaid act mentioned, ſhall be and enure, one moiety to the commonwealth, and the other to the uſe of the informer.

Commencement of this act.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

(a) 52, *H.* 3, *ch.* 23. 6 *Edw'd* 1, *ch.* 5. *(b)* 11 *H.* 6, *ch.* 5. *(c)* 13 *Edw'd* 1, *ch.* 22. *(d)* 20, *Edw'd* 1, *ch.* 2. *(e)* 9 *H.* 3, *ch.* 4 & 5. *(f)* 13 *Edw'd* 1, *ch.* 14. *(g)* 6 *Edw'd* 1, *ch.* 13.

CHAP. CXLI.

An Act concerning Witnesses, and prescribing the Manner of obtaining and executing Commissions for taking their Depositions in certain Cases.

[Passed the 29th of November, 1792.]

Who shall not be admitted as witnesses.

I. BE *it enacted by the General Assembly*, That no person convicted of treason, murder, or other felony whatsoever, shall be admitted as a witness in any case whatsoever, unless he be first pardoned, or shall have received such punishment, as by law ought to be inflicted upon such conviction.

II. NO person convicted of perjury, although he be pardoned or punished for the same, shall be capable of being a witness in any case.

III. NO negro, mulatto or *Indian*, shall be admitted to give evidence, but against or between negroes, mulattoes or *Indians*.

Witnesses failing to attend may be fined, and liable to action of the party.

IV. IF any person summoned as a witness to attend any court within this commonwealth, or to appear before commissioners, referees, or other persons appointed by or under the authority of such court, to take or receive his deposition, or testimony, or upon any order of survey shall fail to attend accordingly, not having a reasonable excuse for such failure, such person shall be fined by the court from whence the *subpœna* issued, sixteen dollars, to the use of the party for whom such witness was summoned; and the witness so failing, shall farther be liable to the action of the party for all damages sustained by the non-attendance of such witness, but if sufficient cause of his or her inability to attend, be shewn to the court at the time he or she ought to have appeared, or at the next succeeding court, then no fine or action shall be incurred by such failure.

Refusing to testify, how to be dealt with.

V. IF any person so summoned and attending in any of the causes abovementioned, shall refuse to give evidence upon oath, or affirmation (as the case may be) to the best of his or her knowledge, every person so refusing, shall be committed to prison by the court, commissioners, referees, or other persons authorised to take or receive his or her deposition or testimony, there to remain without bail or mainprize, until he or she shall give such evidence.

Their privilege.

VI. WITNESSES shall be privileged from arrests† in all cases except treason, felony, and breaches of the peace, during their attendance at any court, or other place where their attendance shall by *subpœna* first duly executed by a sworn officer, or by some indifferent person who shall have made oath to the due execution thereof, have been required, and in coming to and returning from thence, allowing one day for every twenty miles from their places of abode.

Proviso.

Provided always, That no person whatsoever attending any of the courts in this commonwealth, or upon any reference or survey, by order of any such court in virtue of any *subpœna*, shall be privileged from an arrest by original or other process, unless such person shall be actually a witness in the matter in such *subpœna* expressed.

How to be summoned.

VII. IN all cases where witnesses are required to attend any court, commissioners or referees, or on any order of survey, a summons shall be issued by the clerk, at the request of either party, or of the commissioners, referees, or surveyor, interested in, or acting under the order of any such court, expressing the day and place where they are to appear, the names of the parties to the suit, and in whose behalf summoned. Any *subpœna* or process to require or compel the attendance of any witness, may be served or executed in the district, county or corporation wherein the said witness shall be found.

Allowance for attending county courts, referees, surveys, &c.

VIII. EVERY witness so summoned to appear at any county court, or to attend commissioners, referees, or other persons for the purpose of giving testimony, or upon any survey of lands, and being an inhabitant of the same county, shall be paid by the person or persons at whose suit the summons issued, fifty-three cents for every day's attendance upon such summons; and every person residing in, and summoned out of another county, shall have the said allowance of fifty-three cents *per* day for attendance, and be paid for travelling and ferriages to and from court, as witnesses in the superior courts. ‡

† *See ch.* 80, *sec.* 16, *whereby witnesses and some others are also privileged in certain cases, unless guilty of the offences in this clause, or of a riot, or have escaped out of prison or custody.* ‡ *By act of Dec. Sess.* 1800, *ch.* 44, *witnesses summoned to attend out of their county in criminal prosecutions, allowed for attendance the same as witnesses attending the District Court.*

For attending the superior courts.

IX. EVERY witneſs ſo ſummoned and attending the court of appeals, high court of chancery, general court, or any diſtrict court, ſhall be paid by the party at whoſe ſuit the ſummons iſſued, four cents *per* mile for travelling to the places of attendance, and the ſame for returning, beſides ferriages, and one dollar and four cents *per* day for his attendance, which allowance ſhall be entered by the clerk of courſe, except where diſputes ariſe concerning the ſame, and then ſuch diſputes ſhall be determined by the court. Witneſſes in all caſes, as well civil as criminal, ſhall be ſworn as to their travelling, ferriages and attendance, for which purpoſe the clerk or ſome of his aſſiſtants ſpecially empowered by the court, or the commiſſioners, referees, or ſurveyor, as the caſe may be, ſhall adminiſter the oaths.

For attending in ſeveral ſuits at the ſame time.

X. NO witneſs ſhall be permitted to charge his attendance in more than one ſuit at the ſame time, but if he be ſummoned to attend in ſeveral ſuits, he may charge his attendance to either of the parties by whom he ſhall be ſummoned at his election.

Charge allowed of only three witneſſes to one fact.

XI. THERE ſhall not be allowed in the bill of coſts the charge of more than three witneſſes for the proof of any one particular fact.

Commiſſions for their examination how to be obtained, when a witneſs is about to leave the country, or is unable to attend.

XII. WHEN any witneſs ſhall be about to depart the country, or by age, ſickneſs or otherwiſe ſhall be unable to attend the court, upon affidavit thereof, or on a certificate that an affidavit has been made to that effect, from any juſtice of the peace, the clerk of the court in which any ſuit is or ſhall be depending, may, on requeſt of either party, award a commiſſion for taking the depoſition of ſuch witneſs *de bene eſſe*, to be read as evidence at the trial, in caſe the witneſs ſhould be unable to attend; but the party obtaining ſuch commiſſion, ſhall give reaſonable notice to the other party, of the time and place of taking the depoſition, otherwiſe the ſame ſhall be void. †

When a witneſs reſides beyond ſea, or in any foreign country.

XIII. UPON affidavit that any witneſs reſides beyond ſea, or in any foreign country, or in any other of the United States, the court wherein the ſuit is depending, may, on requeſt of either party, direct a commiſſion to iſſue from the clerk's office, directed to ſuch commiſſioners, not exceeding five, as ſhall be nominated and agreed upon by the parties litigant; for which purpoſe the party applying for a commiſſion in ſuch caſes, ſhall give the adverſe party, his attorney or agent ten days previous notice of the day of his intended application to the court, without which no commiſſion ſhall iſſue, and if the adverſe party, his attorney or agent ſhall not attend for the purpoſe, in that caſe, the party praying the commiſſion may nominate the commiſſioners himſelf, any three of whom in either caſe may proceed to execute the ſaid commiſſion. *Provided nevertheleſs*, That in either caſe, reaſonable notice ſhall be given to the adverſe party, of the time and place of taking ſuch depoſition, and the coſts of giving notice as aforeſaid, as well as of taking any depoſition or depoſitions in any or either of the United States, or beyond ſea, or in any foreign country, may be taxed by the court againſt the party, who in their opinion, ought in juſtice to pay the ſame.

When a claim or defence depends on a ſingle witneſs.

XIV. IF any party in any ſuit at common law or in chancery, ſhall make oath, that he verily believes his claim or defence (as the caſe may be) or a material point thereof depends on a ſingle witneſs, the court, or the clerk in vacation, may award a commiſſion to take the depoſition of ſuch witneſs *de bene eſſe*, although he or ſhe be not about to depart the country, nor under any diſability, the party in ſuch caſe, giving reaſonable notice of the time and place of taking ſuch depoſition to the adverſe party.

Where a witneſs to a will reſides out of the ſtate.

XV. WHEN any will ſhall be produced to any court having juriſdiction in the caſe of ſuch will, for probat, and any witneſs or witneſſes atteſting the ſame ſhall reſide out of this commonwealth, it ſhall be lawful for ſuch court to iſſue a commiſſion or commiſſions annexed to ſuch will, and directed to the preſiding judge of any court of law, to any notary public, mayor, or other chief magiſtrate of any city, town, corporation, or county, or to ſuch other perſon or perſons as by laws of ſuch country, where ſuch witneſs or witneſſes may be found, are duly authorized to adminiſter an oath, empowering him or them to take and certify their atteſtations. If the perſon to whom ſuch commiſſion ſhall be directed, ſhall certify in the manner ſuch acts are uſually authenticated by him or them, that the witneſs or witneſſes perſonally appeared before him or them, and made oath, or affirmed, as the caſe may require, that the teſtator ſigned and

† *By act of* 1799. *ch.* 3, *clerk are allowed to adminiſter oaths for foundation of an official act by them.*

publiſhed the writing annexed to ſuch commiſſion, as his laſt will and teſtament, or that ſome other perſon ſigned it by his direction; that he was of diſpoſing mind and memory, and that he or they ſubſcribed their names thereto in his preſence, and at his requeſt, ſuch oath or affirmation ſhall have the ſame operation, and the will be recorded in like manner, as if ſuch oath or affirmation had been made in the court from whence ſuch commiſſion iſſued.

XVI. AND whereas great inconvenience may ariſe to the ſuitors in the ſeveral courts of this commonwealth, who are litigant with perſons reſiding without this commonwealth, and have not agents or attornies within the ſame, by the death or removal of witneſſes, whoſe depoſitions cannot legally be taken for want of notice to ſuch abſent perſons:

How notice is to be given where one of the parties lives out of the ſtate and has no agent therein.

XVII. *BE it therefore enacted*, That when any commiſſion ſhall be obtained, to take the depoſition of a witneſs in a ſuit depending in any of the courts of this commonwealth, where the plaintiff or defendant in ſuch ſuit doth not reſide within the ſame, or hath not an agent or attorney within the ſame, to whom notice of the time and place of taking ſuch depoſition can be given, then the perſon obtaining ſuch commiſſion, having publiſhed in the *Virginia* Gazette, or in any other public newſpaper printed within this commonwealth, four weeks ſucceſſively, the time and place, when and where, the witneſs is to be examined, and the name of the witneſs, together with the names of the parties to the ſuit in which ſuch witneſs is to be examined, it ſhall and may be lawful for any plaintiff or defendant as aforeſaid, to proceed to take any depoſition authoriſed by the commiſſion iſſuing from the court agreeable to law, where the ſuit depends as aforeſaid; and ſuch depoſition when taken and returned to the clerk's office agreeable to the rules of the court from whence the commiſſion iſſued, ſhall there be filed and allowed to be read in evidence in the ſame manner, and under the like reſtrictions as if notice had been duly given to the oppoſite party; any law, uſage, or cuſtom, to the contrary in any wiſe notwithſtanding: and the printer may demand and receive the ſum of two dollars for publiſhing ſuch advertiſement four weeks, which ſhall be taxed in the bill of coſts, if the party chargeable therewith ſhall prevail in the ſuit.

Repealing clauſe.

XVIII. ALL and every act and acts, clauſes and parts of acts, for, or concerning any matter or thing within the purview of this act, ſhall be, and the ſame are hereby repealed.

Commencement of this Act.

XIX. THIS act ſhall commence in force, from and after the paſſing thereof.

CHAP. CXLII.

An Act concerning ſtealing Tobacco on the Highways.

[Paſſed the 15th of December, 1792.]

Felony to ſteal tobacco on the highway.

I. BE *it enacted by the General Aſſembly*, That all and every perſon and perſons, that ſhall at any time after the commencement of this act, either in the night or day, take, ſteal and carry away, any hogſhead or caſk of tobacco, which ſhall be lying on or near any public highway, or any part of the tobacco contained in the ſame hogſhead or caſk, although the ſaid hogſhead or caſk may not be in the poſſeſſion of the owner thereof, ſhall be adjudged a felon, and be puniſhed as in other caſes of felony.

Commencement of this Act.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXLIII.

An Act declaring what Remedy the Commonwealth ſhall have in certain Caſes.

[Paſſed the 25th of December, 1792.]

Actions on the caſe may be brought againſt public debtors for recovery of money, &c. due to the commonwealth.

I. BE *it enacted*, That whenſoever any perſon or perſons heretofore have, or hereafter may receive, any ſum or ſums of money or tobacco, or any kind of public ſecurities whatſoever, which of right do or ſhall appertain to this commonwealth, and ſuch perſon or perſons ſhall refuſe or neglect to pay ſuch money, tobacco, or public ſecurities, or any part thereof, to ſuch officer of this commonwealth, to whom by law the ſame ought to be paid; then and in that caſe it ſhall and may be lawful for the governor, with the advice of the council of ſtate, to inſtitute an action upon the caſe againſt ſuch perſon or per-

ſons, their executors or adminiſtrators, for money, tobacco, or public ſecurities, (as the caſe may be) had and received to the uſe of the commonwealth; which action ſhall be inſtituted in the name of the governor for the time being, and his ſucceſſors, for the uſe of the commonwealth, and ſhall not abate by the death, reſignation, or removal from office of the governor, in whoſe name it ſhall be brought.

No official bond to be pleaded in abatement of bar thereof.

II. WHERE ſuch ſuit ſhall be brought againſt any public officer, ſuch officer ſhall not be permitted to plead any official bond, or any condition or covenant therein, either in abatement or bar thereof.

Commencement of this act.

III. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CXLIV.

An Act for appointing Public Notaries.

[Paſſed the 27th of December, 1792.]

Preamble.

I. WHEREAS it will be for the eaſe and convenience of the inhabitants of this commonwealth, and all others trading hither, that public notaries ſhould be appointed:

Public notaries, how to be appointed.

II. *BE it therefore enacted*, That the governor, with advice of council for the time being, is hereby empowered and required to nominate and appoint ſo many notaries public as to him ſhall ſeem neceſſary; and upon the death, reſignation, or removal of any ſuch notaries public, to appoint others in his or their room; which ſaid notaries public ſhall hold their reſpective offices during good behaviour, and ſhall uſe and exerciſe the ſaid office of notary public for ſuch places, and within ſuch limits and precincts as the governor and council ſhall direct, to whoſe proteſtations, atteſtations and other inſtruments of publication due credence is hereby given. *Provided nevertheleſs*, That every notary public ſhall previous to his executing the ſaid office, give bond to the governor for the time being, in the penalty of fifteen hundred dollars, conditioned for the due diſcharge of his ſaid office; and ſhall in the high court of chancery, the general court, or the county court of his precinct, take the oath of fidelity to this commonwealth, and alſo an oath that he will without favor of partiality, honeſtly, diligently and faithfully diſcharge the duties of a notary public.

To give bond and ſecurity, and take oaths of fidelity and of office.

Their fees.

III. *AND be it further enacted*, That every public notary ſhall and may demand and receive for recording in a book to be kept for that purpoſe, each atteſtation, proteſtation, and all other inſtruments of publication, the ſum of eighty-three cents and no more.

Commencement of this act.

IV. THIS act ſhall commence in force, from and after the paſſing thereof.

CHAP. CXLV.

An Act to empower Securities to recover Damages in a Summary Way.†

[Paſſed the 27th of December, 1792.]

Summary remedy for ſecurities in notes or obligations againſt their principals.

I. BE *it enacted*, That in all caſes where judgment hath been, or ſhall hereafter be entered up in any of the courts of record within this commonwealth, againſt any perſon or perſons as ſecurity or ſecurities, their heirs, executors, or adminiſtrators, upon any note, bill, bond, or obligation, and the amount of ſuch judgment, or any part thereof hath been paid or diſcharged by ſuch ſecurity or ſecurities, his, her, or their heirs, executors or adminiſtrators, it ſhall and may be lawful for ſuch ſecurity or ſecurities, his, her, or their executors or adminiſtrators, to obtain judgment by motion againſt ſuch principal obligor or obligors, his, her, or their heirs, executors or adminiſtrators, for the full amount of what ſhall have been paid by the ſecurity or ſecurities, his, her, or their executors or adminiſtrators, in any court where ſuch judgment may have been entered up againſt ſuch ſecurity or ſecurities, his, her, or their heirs, executors or adminiſtrators. *a*

For one ſecurity againſt another jointly bound with him.

II. *AND be it further enacted*, That where the principal obligor or obligors, have or hereafter ſhall become inſolvent, and there have been, or ſhall be

† *Amended chs.* 174 *and* 175. (*a*) 1786, *ch.* 15.

two or more securities jointly bound with the said principal obligor or obligors in any bond, bill, note, or other obligation, for the payment of money or other thing, and judgment hath been or hereafter shall be obtained against one or more of such securities, it shall and may be lawful for the court before whom such judgment was or shall be obtained, upon motion of the party or parties against whom judgment hath been entered up as securities aforesaid, to grant judgment and award execution against all and every of the obligors and their legal representatives, for their and each of their respective shares and proportions of the said debt.

Securities not to suffer judgments to go against them by confession or default to the injury of the principals.

III. *AND be it further enacted,* That no security or securities, his, her, or their executors or administrators, shall be suffered to confess judgment, or suffer judgment to go by default, so as to distress his, her, or their principal, or principals, if such principal or principals will enter him, her, or themselves, a defendant or defendants to the suit, and tender to the said security or securities, his, her, or their executors or administrators, other good and sufficient collateral security, to be approved of by the court before whom the suit shall be depending.

Summary remedy of common bail against the defendant.

IV. *AND be it further enacted,* That in all cases where judgment hath been, or shall hereafter be entered up in any of the courts of record in this commonwealth, against any person as common bail for the appearance of another, to defend any suit depending in such court, and the amount of such judgment or any part thereof hath been paid or discharged by such common bail, his, her, or their heirs, executors, or administrators, it shall and may be lawful for such common bail, his, her, or their heirs, executors, or administrators, to obtain judgment by motion against the person or persons for whose appearance they were bound, his, her, or their heirs, executors, or administrators, for the full amount of what shall have been paid by the said common bail, his, or her heirs, executors, or administrators, in any court where judgment may have been entered up against such common bail. *Provided always,* that no judgment shall be obtained by motion as aforesaid, unless the party or parties against whom the same is prayed, shall have ten days previous notice thereof.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLVI.

An Act for regulating the Militia of this Commonwealth.†

[Passed the 22d of December, 1792.]

Preamble.

I. WHEREAS the Congress of the United States, did at their last session, pass an act, intituled "*An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States,*" and it is expedient for this legislature to carry the same into effect so far as it respects this state:

Arrangement of the militia in brigades and divisions.

II. *BE it therefore enacted,* That the counties of *Accomack, Northampton, Princess Anne* and *Norfolk,* shall compose one brigade; the counties of *Nansemond, Isle of Wight, Southampton, Surry, Sussex* and *Prince George,* one brigade; the counties of *Elizabeth City, Warwick, York, James City, Charles City, New-Kent, Henrico* and *Hanover,* one brigade; the counties of *Glocester, Mathews, Middlesex, Essex, King William, King* and *Queen, Lancaster, Northumberland, Richmond* and *Westmoreland,* one brigade; and the said brigades shall compose one division. That the counties of *Loudoun* and *Fairfax* shall compose one brigade; the counties of *Fauquier, Prince William, Stafford* and *King George,* one brigade; the counties of *Culpeper, Orange, Spotsylvania* and *Caroline,* one brigade; the counties of *Louisa, Goochland, Fluvanna, Albemarle* and *Amherst,* one brigade; and the said brigades shall compose another division. The counties of *Frederick* and *Berkeley* shall compose one brigade; the counties of *Rockingham, Augusta* and *Shenandoah,* one brigade; the counties of *Wythe, Russell, Washington, Lee, Grayson* and *Montgomery,* one brigade; the counties of *Botetourt, Rockbridge, Greenbrier, Bath* and *Kanawha,* one brigade; the counties of *Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia* and *Ohio,* one brigade; and the said brigades shall compose another division. The counties of *Henry, Patrick, Franklin, Campbell* and *Bedford,* shall compose one brigade;

† *Amended chs.* 152 *and* 153.

the counties of *Pittſylvania*, *Halifax*, *Charlotte* and *Prince Edward*, one brigade; the counties of *Dinwiddie*, *Greenſville*, *Brunſwick*, *Lunenburg* and *Mecklenburg*, one brigade; the counties of *Cheſterfield*, *Amelia*, *Nottoway*, *Powhatan*, *Cumberland* and *Buckingham*, one brigade; and the ſaid brigades ſhall compoſe another diviſion.

In regiments and battalions.

III. *AND be it further enacted*, That the counties of *Berkeley*, *Culpeper*, *Loudoun* and *Frederick*, ſhall compoſe two regiments and four battalions each; that the counties of *Middleſex* and *Eſſex* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *King* and *Queen* and *King William*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Northumberland* and *Lancaſter* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Richmond* and *Weſtmoreland* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Powhatan* and *Cumberland* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Harriſon* and *Randolph* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Ruſſell* and *Lee* ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; and the counties of *Charles City* and *New-Kent* ſhall compoſe each one battalion, which two battalions ſhall conſtitute one regiment; the counties of *Elizabeth City* and *Warwick* one battalion, and the counties of *York* and *James City* one battalion; which two battalions ſhall compoſe one regiment; and each of the other counties in this commonwealth, and alſo the city of *Richmond* and borough of *Norfolk*, ſhall compoſe each one regiment and two battalions.

Officers, how to be appointed.

IV. *AND be it further enacted*, That the General Aſſembly ſhall by joint ballot of both houſes, appoint an adjutant-general for the militia of this ſtate, and alſo a major-general to each diviſion, and a brigadier-general to each brigade; which major-generals and brigadiers ſhall reſide within the limits of their reſpective commands. Each major-general ſhall appoint his own aids-de-camp, and each brigadier-general his own brigade inſpector, who ſhall alſo reſide within the limits of their reſpective diviſions and brigades.

V. *AND be it enacted*, That the courts of the ſeveral counties and corporations ſhall from the field and other officers who at preſent hold commiſſions in the militia of the reſpective counties and corporations, proceed to recommend to the Executive the officers neceſſary to complete the regiments and battalions and companies purſuant to this act, by grades and ſeniority, and the perſons ſo recommended, ſhall be commiſſioned by the governor, agreeable to the conſtitution of this ſtate.

Officers not recommended by the county courts to become ſupernumeraries.

VI. ALL perſons holding commiſſions under the late militia laws of this ſtate, and who ſhall not be recommended by their reſpective courts, ſhall be conſidered as ſupernumerary officers, and may be recommended by the reſpective county and corporation courts to ſupply vacancies hereafter happening in the officers of the militia.

Commiſſioned officers to meet twice in every year to be trained.

VII. AND whereas it will be productive of conſiderable advantages to the diſciplining the militia, to have frequent meetings of the commiſſioned officers of the ſeveral regiments and battalions; *Be it enacted*, That the commiſſioned officers of the ſeveral regiments and battalions ſhall meet twice in every year, for the purpoſe of being trained and inſtructed by the brigade inſpector. The days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments and battalions belong. The officers thus aſſembled, ſhall each continue two days and no longer, for every time they ſhall be called out. Every officer failing to attend ſuch meeting, on being ſummoned (not having a reaſonable excuſe to be adjudged of by a court martial) ſhall forfeit and pay five dollars, to be appropriated as the other fines are by this act directed.

Diviſions, brigades, and regiments to be numbered and regiſtered in the adjutant general's office.

VIII. IT ſhall be the duty of the executive to number by ballot the ſeveral diviſions, brigades, and regiments, and cauſe the ſame to be regiſtered in the office of the adjutant-general; and every commiſſion hereafter iſſued by the executive, ſhall expreſs the number of the diviſion, brigade, or regiment, reſpectively, to which the perſon to whom the ſame is directed ſhall belong.

Counties to be divided into diſtricts for forming regiments, battalions, and companies.

IX. *AND be it further enacted*, That the commanding officers of regiments, battalions and companies, to be appointed and commiſſioned by virtue of this act, ſhall meet at their reſpective courthouſes on ſome day in the month of *March* or *April* next, to be appointed by the commanding officers of regi-

ments, then and there to divide their respective counties into districts, for the purpose of forming the regiments, battalions, and companies, by this act established; which districts so laid off, shall be designated by certain lines and bounds to be established by them, and recorded by the clerks of the courts-martial respectively herein after to be appointed.

Companies to be divided into divisions.

X. *AND be it further enacted*, That it shall be the duty of the commanding officer of each company so inrolled, to proceed forthwith to divide his company into divisions by ballot from one to ten, for the purpose of a regular rotine of duty when called into actual service, and shall return a roster of each division and its number in rotation, within fifteen days, to the commanding officer of his battalion, who shall forthwith transmit the same to the commanding officer of the regiment, who shall order the same to be recorded by the clerk of the court-martial. The same regulations shall be observed by every commanding officer of a company, battalion, and regiment, on the subsequent inrollment of any person therein, unless such person shall produce a certificate of his having been before draughted for the above purpose, in which case he shall be inrolled accordingly.

Persons exempted from militia duty.

XI. *AND be it further enacted*, That the members of the council of state; judges of the superior courts; speakers and clerks of both houses of the general assembly; the clerks of the superior and inferior courts; the attorney-general; the treasurer and his clerks; the auditor of public accounts and his clerks; clerks of the council of state; the register of the land-office and his clerks; all inspectors of tobacco; all professors and tutors, and students at the college of *William* and *Mary*, and other public seminaries of learning; all ministers of the gospel licensed to preach according to the rules of their sect, who shall have previously taken before the court of their county an oath of fidelity to the commonwealth; keepers of the public, district, and county jails, and of the public hospital; millers; and all quakers and menonists religiously scrupulous of bearing arms, and having a certificate from their respective societies, according to the rules thereof, of their being members of such society, shall be, and they are hereby exempted from the duties required by this act.

XII. AND whereas it will be of great utility and advantage in establishing a well disciplined militia, to annex to each battalion a light company to be formed of young men from eighteen to twenty-five years of age, whose activity and domestic circumstances will admit of a frequency of training, not practicable or convenient for the militia in general, and returning to the main body on their arrival at the latter period, will be constantly giving thereto a military pride and experience, from which the best of consequences will result:

A company of grenadiers, light infantry, or riflemen, to be annexed to each battalion,

XIII. *BE it enacted*, That the governor with the advice of council, shall issue commissions for a captain, lieutenant, and ensign to each battalion, out of the present commissioned officers therein; and the said companies shall be distinguished by the denomination of grenadiers, light-infantry, or riflemen, at the discretion of the commanding officer of the battalion. Every person belonging to the said light companies, shall wear while on duty, such caps and uniforms as the executive shall direct, to be purchased by the commanding officer of the battalion, out of the monies arising on delinquents. The captain thereof shall after qualifying as is directed for other officers, proceed to enlist by voluntary enlistments in his company, a sufficient number of young men as before described. And as the men of such light company shall from time to time arrive at the age of twenty-five years, the captain shall make report thereof to the commanding officer of the battalion, who shall order them to be enrolled in the company, whose districts they may respectively live in, and deficiencies shall be supplied by new enlistments, and the said companies shall in all respects be subject to the same regulations and orders as the rest of the militia.*

A company of cavalry, and a company of artillery, to be annexed to each division.

XIV. *AND be it further enacted*, That the governor with the advice of council, shall, and he is hereby empowered to appoint and commission at their own discretion, at least one captain and two lieutenants in each division, who are hereby authorised and empowered to enlist by voluntary enlistment, and in such proportion to each officer respectively so appointed as the executive shall direct, a company, to be denominated the company of artillery. In like manner commissions shall issue for at least one captain, two lieutenants, and one cornet, who shall also by voluntary enlistments, and in the same proportions to their respective ranks, enlist a company to be denominated

* *So much of this clause as declares that the men shall be from* 18 *to* 25 *years of age, repealed, ch.* 152, *sec.* 19.

the company of cavalry. *Provided*, That the number of companies of artillery and of cavalry, shall not exceed one for each brigade. Proviso.

XV. *AND be it further enacted*, That each and every officer appointed and commissioned by virtue of this act, shall previous to their entering on the execution of their respective offices, take the following oath:— Oaths of officers.

I do swear that I will be faithful and true to the common-wealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of a in the regiment of the militia of* Virginia, *according to the best of my skill and judgment:* So help me GOD."

XVI. THE adjutant-general shall have full power and authority to convene the brigade majors and inspectors at such times and places as the good of the service may require, and he shall think proper, and generally to establish such rules and regulations for conducting the business of his department as he may think expedient and necessary. Any brigade major or inspector, failing to attend such meeting, when duly notified thereof, not having a reasonable excuse for such failure, shall forfeit and pay fifty dollars, to be appropriated as the other fines are directed by this act. Adjutant-general may convene brigade majors and inspectors.

XVII. THERE shall be a private muster of each company of grenadiers, light infantry, riflemen, artillery and cavalry once in every two months, except in the months of *December*, *January*, and *February* in every year, and every other company, formed by virtue of this act, once in three months, (except as before is herein excepted) to be appointed by the commanding officer thereof, at, or as near as may be to the centre of his company district. There shall be a muster of each battalion in the month of *May*, in every year, to be appointed by the commanding officers of the regiments to which such battalions respectively belong, at, or as near as may be to the centre of the battalion; and a muster of each regiment in the month of *October*, in every year, to be appointed by the brigadier-general or commanding officer of the brigade, to which such regiment belongs, at, or as near as may be to the centre of the regimental district; which said company, battalion, and regimental musters shall continue one day each, and no longer. Of the times and places of the said musters, the brigadier generals or commanding officers of brigades for the time being, shall cause notice to be given to the commanding officers of regiments; the commanding officers of regiments shall give notice of the regimental and battalion musters, to the commanding officers of battalions; the commanding officers of battalions shall give notice of the regimental and battalion musters, to the captains or commanding officers of the companies; and the captains or commanding officers of the companies shall give notice of the regimental, battalion, and private musters, to every person of their respective companies; and to that end the commanding officers of companies shall have power to order so many of their serjeants as they shall think fit, to give such notice, which may be done by personal summons by the said commanding officer, or serjeant so ordered, or by either of them, leaving notice in writing at the usual place of abode of the person so to be notified. The notice to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing delivered in person, or left at the usual place of abode of each person to be notified, either by such commanding officers themselves, or by such officer or officers of their respective commands, as they may think fit to order. The said notices shall be given by the commanding officers of the brigade, to the commanding officers of regiments, at least thirty days; by the commanding officers of regiments to the commanding officers of battalions, at least fifteen days; by the commanding officers of battalions to the commanding officers of companies, at least ten days; and by the commanding officers of companies to each person in their companies, at least five days before such regimental, battalion, or private musters, (as the case may be) shall be appointed to be had. Any officer ordered as aforesaid to give such notices, and failing therein, shall for every offence forfeit and pay twenty dollars: And every serjeant so failing, shall forfeit and pay three dollars for every such failure, to be recovered as other fines hereafter to be established. Every officer and soldier shall appear at his respective muster-field on the day appointed, by eleven o'clock in the forenoon. At every muster, each captain or commanding officer of a company shall call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof at the next regimental or battalion muster, to the commanding officer of his battalion, including those which may occur on that day. And

Musters of the companies.

Of the battalions;

Of the regiments;

Notice of them, by whom, and how to be given.

Penalties on officers, and serjeants failing to give notices.

Rolls to be called, and delinquencies noted.

every commanding officer of a battalion, shall at their regimental or battalion musters, (as the case may be) in like manner call his roll, examine and note down all delinquencies in his battalion, and make return thereof, together with those reported from commanding officers of companies, to the commanding officer of the regiment to which he belongs, on the day next succeeding such regimental or battalion musters, (as the case may be) who shall lay the whole before the court hereafter appointed to take cognizance of, and determine on them; *Provided*, That the commanding officer of a battalion shall not be obliged to extend his roll call, or individual examination, beyond the officers, unless he shall observe some apparent necessity therefor; and to each of the said returns shall be annexed the following certificate, to wit:

Form of return of delinquencies.

I , *do certify, that the returns hereunto annexed, contain all the delinquencies which have occurred in my company since my last return, having examined the same as the law directs:*

And to the battalion returns shall be added, "and that the reports which accompany them, are all which have been made by the commanding officers of battalions."

Returns of companies.

XVIII. EVERY captain or commanding officer of a company, shall within ten days after every regimental and battalion muster, make up and report to the commanding officer of his battalion, a return of his company, in such manner and form as shall be furnished by the proper officer from time to time. It

Of battalions; Of regiments;

shall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments, in ten days after such regimental or battalion musters, who shall cause the adjutant of his regiment to make like returns thereof to their respective brigade inspectors within thirty days thereafter.

Serjeants, corporals, drummers and fifers to be appointed to each company.

XIX. EACH captain or commanding officer of a company, shall appoint to his company four serjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion; and all vacancies which may thereafter happen, shall be filled up by appointments in like manner.

The officer next in rank to take command in the absence of his superior.

XX. IN all cases of death, absence or resignation, of any lieutenant colonel commandant, major, or captain, the next officer in rank in his respective command, shall be considered as the commanding officer during such vacancy, and liable to perform the duties required by this act, and for neglect therein, shall incur the penalties annexed thereto.

Militia to be exercised,

XXI. IT shall be the duty of every commander of a regiment, battalion, or company, at every of their respective musters, to cause the militia to be exercised and trained agreeable to the mode of discipline prescribed by Congress, under pain of being arrested and tried for breach of their duty; and for this purpose the said officers are hereby authorised to order the most expert and fit officer in their respective commands, to perform that duty.

Officers to be furnished with printed copies of the rules of discipline.

XXII. AND to the end that a general knowledge of the rules of discipline established by Congress in their resolution of the twenty-ninth day of *March*, one thousand seven hundred and seventy-nine, may be diffused, the executive is hereby authorised and required, to procure and have a sufficient number of copies of the said rules printed and bound in boards, to afford to every commissioned officer of the militia, one, and to cause them to be delivered to the commanding officers of brigades, to be by them duly distributed without delay; and upon the death, resignation, or removal of any officer, as aforesaid, the plan delivered him shall revert to the public, and the commanding officer of the battalion in which such vacancy shall occur, shall deliver the same to a new appointed officer, who may not have received one, and for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officers may be arrested for misbehaviour.

XXIII. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under an arrest by his commanding officer, and tried as hereafter shall be directed.

Non-commissioned officers and soldiers may be confined, or bound neck and heels for disobedience or mutiny.

XXIV. IF any non-commissioned officer, or soldier, shall behave himself disobediently or mutinously, when on duty, or before any court, or board, directed by this act to be held, the commanding officer, court, or board, may confine him for the day, or cause him to be bound neck and heels for any time not exceeding five minutes.

By-standers may be confined for molesting any officer or soldier on duty.

XXV. IF any by-stander shall interrupt, molest, or insult any officer or soldier while on duty at any muster, or shall be guilty of like conduct before any court or board as aforesaid, the commanding officer, or such court or board, may cause him to be confined for the day.

Colours to be procured.

XXVI. THE commanding officers of regiments shall cause to be purchased, out of the money arising from the fines, a set of colours for his regiment, and also a set of colours for each battalion in his regiment. He shall also procure in like manner, for each company in his regiment, a drum and fife, or bugle-horn, and on the colours and drums shall be marked the number of the regiment and battalion, together with the name of the county to which they belong.

Drums and fifes, or bugle-horns.

Militia to be called forth in case of invasion or insurrection.

XXVII. *AND be it further enacted*, That the governor, with the advice of council, be authorised and empowered, on any invasion or insurrection, or probable prospect thereof, to call forth such a number of militia, and from such counties as they may deem proper; and for the accommodation, equipment, and support of the militia, so at any time to be called forth, the governor, with the advice aforesaid, may appoint such quarter-masters, commissaries, and other staff, as to them shall seem proper, and to fix their pay and allowances, and shall also take such measures for procuring, transporting, and issuing all stores which may be necessary, as to them shall seem best. Orders for the militia to be called forth, as aforesaid, shall be sent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who shall immediately take measures for detaching the same, with the necessary number, and ranks of officers by detail and rotation of duty.

Each company to be furnished with a waggon, team, &c. by impressment or otherwise.

XXVIII. THE lieutenant colonel commandant, or commanding officers of regiments from which detachments are drawn, shall cause to be procured by impressment or otherwise, for each company, a waggon, team, and driver, six axes, and six camp-kettles, or pots of convenient size, all which shall be delivered to the commanding officer of the company, who shall be accountable for returning the same when his tour is over, and the articles aforesaid shall be returned to the owners, who shall be allowed for the use of the same, whatever shall be adjudged by the court herein after appointed for enquiring into delinquencies: And to the end that if any article impressed, be lost, the owner may be paid for the same, the lieutenant colonel commandant, or commanding officer, shall cause all property by him impressed by virtue of this act, to be valued by two or more freeholders on oath, before the same shall be sent away; and upon proof being made of any article being lost, the valuation thereof shall be allowed, without any allowance for the use, and the said allowance shall be certified to the auditor of public accounts. The said court shall make enquiry into the cause of such loss, and if it shall appear that the said loss was occasioned by the misconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authorised and required to prosecute a suit against such officer for the recovery of damages for the use of the commonwealth.

Articles impressed to be valued.

And the owners paid therefor if lost.

Officers answerable to the public, if lost thro' neglect.

Executive to appoint officers when necessary.

XXIX. IF it shall appear to the executive, upon calling forth the militia as aforesaid, that the necessary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the governor with the advice of council, is hereby authorised to appoint such officers as may be necessary from the counties called upon, as they may think proper, to join the detachment so raised.

Commanding officer in a county, may order out militia in invasions or insurrections.

XXX. IF a sudden invasion shall be made into any county in this commonwealth, or in case of an insurrection in any county, the commanding officer in such county is hereby authorised and required, to order out the whole or such part of his militia as he may think necessary, and in such manner as he may think best, for repelling or suppressing such insurrection, and shall call on the commanding officers of regiments in the adjacent counties, for such aid as he may think necessary, who shall forthwith in like manner furnish the same; and for assembling the militia required upon such occasions, or by orders of the executive, the same measures shall be taken to summon them as is directed in the case of musters.

Militia in service to be governed by the articles of war of the United States.

XXXI. WHENEVER any militia shall be called forth into actual service as aforesaid, they shall be governed by the articles of war which govern the troops of the United States. And courts-martial shall be held as are therein directed, to be composed of militia officers only, for the trial of any person in the militia, but to the cashiering of any officer, or capital punishment of any person, the approbation of the executive shall be necessary; and when any militia shall be in actual service, they shall be allowed the same pay and rations as are allowed by the Congress of the United States to the troops in the service of the United States.

Their pay and rations.

Patrollers to be appointed.

XXXII. *AND be it further enacted*, That the commanding officer of every battalion of militia, shall from time to time, as he shall deem it necessary, ap-

apoint an officer, and so many men of the militia as to him shall seem necessary, not exceeding four, once in every month, or oftener if thereto required by such officer, to patrole and visit all negro quarters and other places suspected of entertaining unlawful assemblies of slaves, servants, or other disorderly persons, as aforesaid, unlawfully assembled, or any others strolling about from one plantation to another, without a pass from his or her master, mistress or owner, and carry them before the next justice of the peace, who, if he shall see cause, is hereby required to order every such slave, servant, stroller, or other disorderly person as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrole, the officer of every party shall return to the captain of the company to which he belongs, a report in writing upon oath (which oath such captain is hereby empowered to administer) of the names of those of his party who were upon duty, and of the proceedings of such patrole; and such captain shall once in every month deliver such patrole returns to the commanding officer of his battalion, by whom they shall be certified and laid before the next court-martial, and if they shall adjudge the patrollers to have performed their duty according to law, the said court shall certify the same to the county court, who are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrole; and every commanding officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay thirty dollars; and every person appointed to patrole, failing to do his duty, shall forfeit and pay three dollars for every such failure; which fines shall be laid, collected, accounted for, and appropriated as is herein directed for laying, accounting for, and appropriating the several fines and penalties by this act directed.*

Their duty.

Their pay.

Penalty for failing to do their duty.

Courts martial to be held for the trial of officers.

XXXIII. AND whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, as well as for enquiring into delinquencies and assessing fines thereon: *Be it therefore enacted*, That the governor shall have power to arrest the major generals, and all other officers for any misconduct whatever, and upon trial and conviction, may censure or cashier them; a lieutenant-colonel commandant may arrest any officer under his command, and report him to the governor for trial, or at the option of such lieutenant-colonel commandant, a general court-martial, to consist of thirteen officers, may by his order be held within the limits of his regimental district, for trial of such as shall be under the rank of a field officer. The president of the said court shall be a field-officer, and six at least of the members shall be captains, and where there is not a sufficient number of officers in any regiment to constitute a court where the arrest is made, the commanding officer of the regiment may call upon the commanding officer of any adjacent regiment, to order as many officers from such regiment as will be sufficient to make a court, and such court may, on conviction, censure or cashier any officer so tried, and their sentence shall be final; saving to such officer an appeal to the executive, if he shall think proper; in which case the commanding officer shall furnish him with a copy of the proceedings of the said court. Any non-commissioned officer or soldier offending, shall be tried by a like general court-martial, and may, on conviction, be censured or fined at the discretion of the court. For obtaining the necessary evidence for the trials aforesaid, the governor, or the commanding officer of the regiment (as the case may be) shall issue his summons, and any person so summoned, failing to attend, shall forfeit and pay, upon a summons from the governor, thirty dollars, and upon a summons from the commanding officer of a regiment, fifteen dollars; to be reported by the commanding officer, amongst other delinquencies, to the court aforesaid.

Officers by whom to be arrested.

Appeals may be made from the sentence of a court-martial to the executive.

Evidence, how to be procured.

Courts for assessment of fines, when and where to be held.

XXXIV. *AND be it further enacted*, That the commanding officers of regiments shall, on some day in the months of *May* and *October*, not exceeding fifteen, nor less than ten days after their regimental and battalion musters, order the commanding officers of battalions and companies, to meet at the places where their last battalion musters respectively were held, a majority of whom shall form a court of enquiry and assessment of fines, and it shall be the duty of the lieutenant-colonel commandant to preside at such boards, and in case of his

* *See act of Dec. sess.* 1800, *ch.* 39, *concerning patroles. This allows a justice of peace to order out patroles.*

abſence by ſickneſs or otherwiſe, the next officer in rank ſhall preſide. The ſaid court ſhall take the following oath, to be adminiſtered by the ſenior officer preſent, and afterwards by any other officer of the ſaid board to him, to wit:

I *do ſwear, that I will truly and faithfully, enquire into all delinquencies which appear on the returns to be laid before me, and will aſſeſs the fines thereon as ſhall ſeem juſt, without favor, partiality, or affection.* So help me GOD.

The lieutenant-colonel commandant ſhall then lay before the ſaid court all delinquencies, as directed by this act, whereupon they ſhall proceed to hear and determine on them.

Fines to be collected by the ſheriffs;

XXXV. ALL fines to be aſſeſſed by virtue of this act, ſhall be collected by the ſheriff of the county, upon a liſt thereof certified by the clerk of the ſaid court, and delivered to the ſheriff, on or before the firſt day of *January*, in every year, who ſhall give his receipt therefor, and account for the ſame to the lieutenant-colonel commandant, or his ſucceſſor, and be allowed the ſame commiſſions as for other public monies, on or before the firſt day of *November*, in the ſame year; and on failure, the commanding officer, or his ſucceſſor, ſhall, on ten days previous notice, obtain judgment for the ſame in the county or corporation court with coſts; and ſhould any perſon ſo charged with fines, fail to make payment on or before the firſt day of *May*, in any year, the ſheriff is hereby authoriſed to make diſtreſs and ſale therefor, in the ſame manner as is directed in the collection of taxes.

by diſtreſs when neceſſary.

Officers to render accounts of fines received.

XXXVI. THE commanding officer of every regiment ſhall on or before the thirty firſt day of *December*, in every year, render to the executive an account upon oath of all monies which have come into his hands by virtue of his office, and of his diſburſements; and if there ſhall remain any money in his hands, the ſame ſhall be paid into the treaſury in aid of the contingent fund.

Fines to be paid for delinquencies; by a commanding officer of a regiment.

XXXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties ſhall be incurred for delinquencies, *viz.* By a lieutenant-colonel commandant, or commanding officer of a regiment, for failing to take any oath, to ſummon any court or board, to attend any court or board, to tranſmit any recommendation of an officer or officers to the governor, to deliver any commiſſion or commiſſions, to appoint a regimental or battalion muſter, to report delinquencies, to make returns of his regiment as by this act directed, ſhall for each and every ſuch offence or neglect, forfeit and pay ſeventy dollars; failing to ſend into actual ſervice any militia legally called for, or to turn out his militia upon any invaſion or inſurrection of his county, two hundred dollars. By a major for failing to take any oath, to attend any court or board, to give notice of any regimental or battalion muſter, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he ſhall forfeit and pay for each and every offence and neglect, thirty dollars; failing to call forth from his battalion with due diſpatch, any detachment of men and officers, as ſhall be required from time to time by the commanding officer, or any call from the governor, invaſion of, or inſurrection in his county, or requiſition from any neighbouring county, eighty dollars. By a captain for failing to take an oath, to attend any court, to inroll his company, to appoint private muſters, to give notice of a regimental or battalion muſter, to attend any muſter armed, to call his roll, examine his company and report delinquencies, to make any return as directed by this act, he ſhall forfeit and pay for each and every ſuch offence and neglect, twenty dollars; failing to call forth ſuch officers and men as ſhall from time to time be legally called from his company, upon any call from the governor, invaſion of, or inſurrection in the county, or requiſition from an adjacent county, or failing on any ſuch occaſion to repair to the place of rendezvous, he ſhall forfeit and pay forty dollars. By a ſubaltern officer, for failing to take any oath, to attend any court, or muſter armed as directed, for each and every ſuch offence, he ſhall forfeit and pay ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered upon any call from the governor, invaſion of, or inſurrection in the county, or requiſition from a neighbouring county, he ſhall forfeit and pay twenty dollars. And moreover, the ſaid officers for any of the ſaid offences, ſhall be liable to be arreſted and tried for the ſame as military offenders. By a non-commiſſioned officer or ſoldier, for failing to attend at any muſter, armed and equipped as directed by law, fifty cents; failing to repair to his rendezvous

By a major.

By a captain.

By a ſubaltern.

By a non commiſſioned officer or private.

when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay ten dollars.

Arms, &c. of militia exempted from executions, distresses, &c. and their persons from arrests at musters and in service.

XXXVIII. ALL arms, ammunition, and equipments of the militia, shall be exempted from executions and distresses at all times, and their persons from arrests in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

XXXIX. THE commanding officers of regiments, shall on the day of his regimental muster, first to be held under this act, his muster being over, order the majors and captains of his regiment to assemble at some convenient place, at or near the muster ground, and then and there appoint by ballot a clerk and provost martial, who shall attend the courts or boards herein before directed to be held; such clerk shall keep a fair record of the proceedings of such courts or boards, as also of the roster returned by the several captains or commanding officers of companies for regular routine of duty, and all other duties required by this act; and together with the provost martial, receive such allowance, to be paid out of the fines arising from delinquencies, as the court or board shall think reasonable.

Richmond, Williamsburg and Norfolk militia to be under the like regulations as the militia of the counties.

XL. THE militia of the city of *Williamsburg*, city of *Richmond*, and borough of *Norfolk*, shall have their officers appointed, and be under the same rules and regulations as the different counties.

XLI. THE commanding officers of regiments, are hereby empowered to receive the commission of any officer in his regiment, who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Courts martial may remit fines;

XLII. ANY court-martial may for good cause shewn, remit any fines imposed by a former court-martial, provided that not more than two courts-martial shall have intervened between such imposition and application for remission.

And exempt persons from militia duty for bodily infirmities.

XLIII. COURTS-MARTIAL may exempt any militia man from duty on account of bodily infirmity, and may again direct such persons to be inrolled when able to do duty.

Courts martial for the trial of general officers.

XLIV. FOR the trial and punishment of the adjutant-general, major-generals, and brigadier-generals, *Be it enacted*, That any major-general, or brigadier-general offending under this act, shall be arrested and tried in the following manner, *viz.* A major-general shall be arrested by the commander in chief of the state upon any misconduct of his own knowledge, or upon complaint lodged in writing by any commissioned officer, who shall thereupon order a general court martial, to consist if convenient of the remaining major-generals, the brigadier-generals of the division, over which such major-general is appointed, or as many of them as can conveniently attend, and as many lieutenant-colonel commandants and majors, as shall make up the number of thirteen in the whole, who shall constitute a court-martial for the trial of such offenders. Any brigadier-general may in like manner be arrested for any offence committed under this act, by the commander in chief of the state, or by the major-general of the division to which he belongs, and tried by a court-martial, to consist of one major-general, and not more than four brigadiers, and as many lieutenant-colonel commandants, majors and captains, as will be sufficient to constitute a court, to consist of thirteen members in the whole, which courts shall proceed to hear and determine all such offences, and give judgment according to the right of the case, to be approved or disapproved by the commanding officer of the state.

Salaries of the adjutant general and brigade inspectors.

XLV. *AND be it further enacted*, That the adjutant-general shall be allowed four hundred dollars *per* year; and that each brigade inspector shall be allowed one hundred and fifty dollars *per* year, for the duties herein required of them, to be paid by the treasurer, on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made.

Commencement of this act.

XLVI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CXLVII.

An Act Repealing under certain Reſtrictions, all Statutes or Acts of the Parliament of Great-Britain, heretofore in Force within this Commonwealth.

[Paſſed the 27th of December, 1792.]

Preamble.

I. WHEREAS by an ordinance of convention, paſſed in the month of *May*, in the year of our Lord, one thouſand ſeven hundred and ſeventy-ſix, intituled "*An Ordinance to enable the preſent magiſtrates and officers to continue the adminiſtration of juſtice, and for ſettling the general mode of proceeding in criminal and other caſes, 'till the ſame can be more amply provided for,*" it is among other things ordained, "That the common law of *England*, all ſtatutes or acts of parliament made in aid of the common law prior to the fourth year of the reign of King *James* the firſt, and which are of a general nature, not local to that kingdom, together with the ſeveral acts of the General Aſſembly of this colony now in force, ſo far as the ſame may conſiſt with the ſeveveral ordinances, declarations and reſolutions of the general convention, ſhall be the rule of deciſion, and ſhall be conſiderd in full force, until the ſame ſhall be altered by the legiſlative power of this colony." *a*

II. AND whereas the good people of this commonwealth may be enſnared by an ignorance of acts of parliament, which have never been publiſhed in any collection of the laws, and it hath been thought adviſeable by the General Aſſembly, during their preſent ſeſſion, ſpecially to enact ſuch of the ſaid ſtatutes as to them appear worthy of adoption, and do not already make a part of the public code of the laws of *Virginia*.

No ſtatute or act of the parliament of Great-Britain to have any force within this ſtate.

III. *BE it therefore enacted by the General Aſſembly*, That ſo much of the above recited ordinance as relates to any ſtatute or act of parliament, ſhall be, and is hereby repealed; and that no ſuch ſtatute or act of parliament ſhall have any force or authority within this commonwealth.

Proviſo as to rights ariſing under, and crimes committed againſt them before the commencement of this act.

IV. *PROVIDED always*, That all rights ariſing under any ſuch ſtatute or act, and all crimes and offences committed againſt the ſame, at any time before the commencement of this act, ſhall remain in the ſame condition in all reſpects, as if this act had never been made.

Saving the right to writs remedial and judicial, and the proceedings thereon.

V. SAVING moreover to this commonwealth, and to all and every perſon and perſons, bodies politic and corporate, and each and every of them, the right and benefit of all and every writ and writs, remedial and judicial, which might have been legally obtained from or ſued out of any court or juriſdiction of this commonwealth, or the office of the clerk of any ſuch court or juriſdiction, before the commencement of this act, in like manner, with the like proceedings thereupon to be had, as fully and amply, to all intents, conſtructions and purpoſes, as if this act had never been made; any thing herein contained, to the contrary, or ſeeming to the contrary, notwithſtanding.

Commencement of this Act.

VI. THIS act ſhall commence and be in force, from the paſſing thereof.

CHAP. CXLVIII.

An Act for Supplying the Defect of Repealing Clauſes, to Certain Acts therein mentioned.

[Paſſed the 28th of December, 1792.]

Preamble.

I. WHEREAS the General Aſſembly, at their preſent ſeſſion, have directed a republication of the laws of this commonwealth, which are of a general concern, among which certain acts ſubſequent in their date to other acts on the ſame ſubject, have no repealing clauſes, and inconveniences may ariſe from the omiſſion thereof:

All acts antecedent to certain enumerated acts on the ſame ſubjects, repealed.

II. *BE it therefore enacted*, That all and every act and acts, clauſe and clauſes, part and parts of acts, antecedent to, and within the purview of an act paſſed by the General Aſſembly of this commonweal h, at their ſeſſion in *October*, one thouſand ſeven hundred and eighty-five, intituled, "*An Act to prevent the circulation of private Bank Notes,*" one other act paſſed at the ſame ſeſſion, intituled, "*An act concerning Eſtrays,*" one other act of the ſame ſeſſion, intituled, "*An act concerning Public Roads,*" and one act paſſed at their ſeſſion in

(a) May 1776, *ch.* 5, 1789, *ch.* 17.

the year one thousand seven hundred and eighty-six, intituled, "*An act against Usury*," one other act of the same session, intituled, "*An act prescribing a method of protesting inland Bills of Exchange, and allowing assignees of obligations to bring actions thereupon in their own names*," and one other act passed in their session of one thousand seven hundred and eighty-seven, intituled, "*An act for the relief of persons who have been or may be injured by the destruction of the Records of County Courts*," for so much of every such act, clause or part of act as relates to any subject, matter, or thing, within all or any of the provisions in the said recited acts, or either of them contained, shall be, and the same are hereby as fully repealed, as if the said recited acts had severally contained a clause repealing former acts on the same subject.

Commencement of this act.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CXLIX.

An Act providing for the Republication of the Laws of this Commonwealth.

[Passed the 28th of December, 1792.]

Bill of rights and the constitution to be prefixed to the code of laws.

I. BE *it enacted by the General Assembly*, That the declaration of rights, made by the representatives of the good people of *Virginia*, assembled in full and free convention, which rights do pertain to them and their posterity as the basis and foundation of government; and the constitution or form of government agreed to, and resolved upon by the delegates and representatives of the several counties and corporations of *Virginia*, shall be prefixed to the code of laws as revised and enacted by the present session of the General Assembly; and that the following acts of Assembly shall be published from the inrolled bills in the same code, to wit: "An act for confirming and better securing the titles to land in the *Northern Neck*, held under the Right Honorable *Thomas Lord Fairfax*, Baron of *Cameron*, in that part of *Great-Britain* called *Scotland*," "An act for confirming the grants made by his Majesty within the bounds of the *Northern Neck*," "An act to empower the freeholders of the several towns not incorporated, to supply the vacancies of the trustees and directors thereof," "An act concerning wrecks," "An act to authorise the Delegates of this State in Congress, to convey to the United States in Congress assembled, all the right of this commonwealth to the territory North-westward of the river *Ohio*," "An act for securing to authors of literary works, an exclusive property therein for a limited time," "An act to approve, confirm, and ratify the compact made by certain commissioners appointed by the General Assembly of the State of *Maryland*, and commissioners appointed by this commonwealth," "An act for establishing religious freedom," "An act to prevent frauds and perjuries," "An act providing that wrongful alienations of land, shall be void so far as they be wrongful, "An act to prevent the circulation of private bank notes," "An act concerning aliens," "An act directing that none shall be condemned without trial, and that justice shall not be sold or deferred," "An act forbidding and punishing affrays," "An act against conspirators," "An act against conveying or taking pretensed titles," "An act prescribing the punishment of those who sell unwholesome meat or drink," "An act for reforming the method of proceeding in writs of right," "An act concerning partitions and joint rights and obligations," "An act providing that actions popular prosecuted by collusion, shall be no bar to those which be prosecuted with good faith," "An act declaring when the death of persons absenting themselves shall be presumed," "An act for the relief of persons who have been or may be injured by the destruction of the records of county courts," "An act to supply the defect of evidence of the royal assent to certain acts of assembly under the former government," "An act to authorize the establishment of fire companies," An act for the appointment of harbour-masters and declaring their duty," "An act concerning estrays," "An act concerning public roads," "An act directing what persons shall be let to bail," "An act for the suppression and punishment of riots, routs, and unlawful assemblies," "An act against usury," "An act prescribing the method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names," "An act to prevent the importation of convicts into this commonwealth," "An act concerning the credentials of the Senators of this commonwealth, in Congress," "An act allowing travelling expenses to the judges of the general court," "An act against such as shall procure or commit wilful perjury, and

Acts to be published in the code with those which have been revised.

againſt embracery," "An act to regulate the inſpection of hemp," "An act to diſable certain officers under the continental government, from holding offices under the authority of this commonwealth," "An act concerning the territory ceded by this commonwealth to the United States," "An act for ſafe keeping priſoners committed under the authority of the United States, into any of the jails of this commonwealth," "An act authoriſing the Governor of this commonwealth, to convey certain lands to the United States for the purpoſe of building a light houſe," "An act concerning homicide by misfortune," "An act allowing a bill of exception to be ſealed," "An act concerning election of members of General Aſſembly," "An act concerning the election of members of the General Aſſembly," "An act concerning the erection of the diſtrict of *Kentuckey* into an independent ſtate," "An act againſt thoſe who counterfeit letters, or privy tokens to receive money or goods in other men's names," "An act againſt the embezzling of records," "An act concerning the benefit of clergy," "An act to provide againſt the appropriation of money by reſolution of the two houſes of aſſembly," "An act for the ceſſion of ten miles ſquare, or any leſſer quantity, of territory within this ſtate to the United States, in Congreſs aſſembled, for the permanent ſeat of the general government," "An act for the relief of creditors againſt fraudulent deviſes," "An act concerning awards," "An act concerning the ſouthern boundaries of this ſtate," and "An act for regulating the navigation of *James* river, above the falls of the ſaid river."

To be publiſhed in order as enacted, and the day of paſſing prefixed.

II. THE ſaid laws ſhall be publiſhed in order, as they were enacted, and the day upon which they reſpectively paſſed, ſhall be prefixed to each act.

Sums of money and quantities of tobacco in the laws to be converted into dollars and cents, in all proceſs, entries, &c.

III. WHERE any of the laws of this commonwealth expreſs any ſum or ſums of money, in pounds, ſhillings and pence, the clerks of the ſeveral courts within this commonwealth, in all proceſs, entries, and orders reſpecting the ſame, ſhall reduce ſuch ſum or ſums of money into dollars and cents; and where any quantity or quantities of tobacco ſhall be expreſſed in the ſaid laws, the clerk ſhall in like manner reduce the ſame into dollars and cents, at the rate of two dollars *per* hundred weight.

Executive to cauſe the code to be printed, with an index and marginal notes.

Copies, how to be diſpoſed of.

IV. *AND be it further enacted*, That the Executive ſhall cauſe a ſufficient number of copies of the laws of this commonwealth, as reviſed and enacted by the preſent ſeſſion of aſſembly, to be printed with a complete index and marginal notes, ten copies of which ſhall be delivered to the executive department, four copies to the clerk of each houſe of aſſembly, and one copy to each member of the preſent general aſſembly, to each of the judges of the ſuperior courts, to every juſtice of the peace, and the clerk of every court within this commonwealth; the coſt of which ſhall be paid out of the contingent fund. Thoſe copies which ſhall be delivered to the executive, to the clerks of the two houſes of aſſembly, to the clerks of courts, and to the judges of the ſuperior courts, ſhall be well bound in calf ſkin, and the other copies ſhall be bound in boards.

How to be bound.

Commencement of this act.

V. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CL.

An Act declaring what Acts of the preſent Seſſion ſhall be immediately in Force, and to ſuſpend the Operation of all other Acts of the preſent Seſſion, which are of a public and permanent Nature.

[Paſſed the 28th of December, 1792.]

Operation of all public and permanent acts of this ſeſſion, ſuſpended until 1ſt October, 1793.

I. BE *it enacted by the General Aſſembly*, That the operation of all the acts paſſed during the preſent ſeſſion of Aſſembly, which are of a public and permanent nature, ſhall be and the ſame are hereby ſuſpended until the firſt day of *October*, one thouſand ſeven hundred and ninety-three.

Certain acts excepted.

II. *PROVIDED nevertheleſs*, That nothing herein contained ſhall be conſtrued ſo as to ſuſpend the operation of the following acts, *viz.* "An act for appointing electors to chooſe a Preſident and Vice-Preſident of the United States," "An act giving further time to the owners of entries on the weſtern waters to ſurvey the ſame," "An act for reducing into one act, the ſeveral acts concerning the court of appeals and ſpecial court of appeals," "An act for regulating the militia of this commonwealth," "An act for arranging the counties of this commonwealth into diſtricts, to chooſe repreſentatives to congreſs," "An act for appropriating the public revenue," "An act remitting certain militia fines," "An act giving further time to the owners of ſurveys to return the ſame into the land office," "An act for aſcertaining the ſalaries to the officers of civil

government," "An act for establishing a bank in the city of Richmond," "An act empowering the executive to advance to the public printer a sum of money for the purposes therein mentioned," "An act to amend the act, intituled, an act authorizing the executive to cause the fronts to the capitol and the prop[illegible] of the commonwealth," "An act for repealing and reducing into one, the several acts of assembly for the inspection of tobacco," "An act to reduce into one, the several acts concerning the recovery of debts due to the public, and the lien of lands for judgments on behalf of the commonwealth against public officers," "An act to reduce into one, the several acts concerning the county and other inferior courts of the commonwealth," "An act repealing the act, intituled, an act providing a building fund for the gradual redemption of the public debt," "An act to reduce into one, the several acts concerning the establishment, jurisdiction, and powers of district courts," "An act to authorize the executive to remit damages in certain cases," "An act repealing and reducing into one, the several acts concerning the high court of chancery," "An act for imposing a public tax for the year one thousand seven hundred and ninety-two," "An act reducing into one, the several acts concerning the general court, and prescribing the manner of proceeding therein in certain cases," "An act for reducing into one, the several acts concerning executions and for the relief of insolvent debtors," "An act to authorize the general court to appoint a clerk pro tempore," "An act concerning wills," "An act reducing into one, the several acts concerning the fees of certain officers, and securing the payment of attorneys the fees and costs due them," "An act reducing into one, the several acts for regulating the proceedings in suits at law," "An act for establishing a bank in the city of Richmond," "An act to provide more effectually for the collection of the public taxes in certain cases," and, "An act declaring, what remedy the commissioners of loan shall have in certain cases."

Commencement of this act. II. Which acts shall cease and be in force, from and after the passing hereof.

1793. *General Assembly*, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 21st Day of *October*, in the Year of our Lord, 1793.

CHAP. CLI.

An Act for further continuing and amending the Act, intituled, An Act for reducing into one, the several Acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 10th of December, 1793.†]

Writs of execution. I. BE *it enacted by the General Assembly*, That all persons who have, or shall hereafter recover any debt, damages or costs, by the judgment of any court of record within this commonwealth, may, at their election, prosecute writs of *fieri facias*, *elegit*, and *capias ad satisfaciendum*, within the year, for taking the goods, lands, or body of the person or persons against whom such judgment is obtained, in manner following: All such writs shall run in the name of the commonwealth, and bear teste by the clerks of the said courts respectively, shall be returnable to the first day of the next succeeding court, so that there be always at least fifteen days between the teste and return of each of the said writs: *Provided*, That executions may be issued from the general court, returnable to the second term of the said court, following the day of issuing the same; and that executions shall issue to any sheriff or coroner from the clerks of the district courts, and be returnable to the first day thereof. *And provided also*, That if the plaintiff in any county or other inferior court, shall desire an execution to issue, returnable at a further day, the clerk shall issue the same accordingly, so as the day of such return be upon a court day, within ninety days next after the teste thereof, and that the forms of the said several writs shall be as follows, *mutatis, mutandis*, to wit: *a*

How to be issued and returned.

Fifteen days at least between teste and return.

From the general and district courts, when returnable.

† *Amended, ch.* 176. *and* 1795, *ch.* 2. *Also by acts of* 1798, *pa.* 10, *whereby executions issue from District Courts may be returnable monthly. Amended further by act of Dec. Sess.* 1801, *ch.* 12. (a) *From* 1748, *except as to Dist. Courts.*

A FIERI FACIAS IN DEBT.

Forms of the writs. Againſt goods and chattels. Debt.

THE commonwealth of *Virginia*, to the ſheriff of county, greeting: We command you, that of the goods and chattels of *A. B.* late in your bailiwick, you cauſe to be made the ſum of , which *C. D.* lately in our court hath recovered againſt him for debt; alſo the ſum of , which to the ſaid *C. D.* in the ſame court were adjudged for his damages, as well by reaſon of detaining the ſaid debt, as for his coſts in that ſuit expended, whereof he is convicted, as appears to us of record, and that you have the ſaid before the judges or juſtices (as the caſe may be) of our ſaid court, the day of , to render to the ſaid *C. D.* of the debt and damages aforeſaid. And have then there this writ. Witneſs, &c."

THE SAME IN CASE, UPON A PROMISE:

Caſe, aſſumpſit.

AS before unto "for his damages, which he ſuſtained, as well by reaſon of his not performing a certain promiſe and aſſumption to the ſaid *C. D.* by the ſaid *A. B.* lately made, as for his coſts by him about his ſuit in this behalf expended, &c."

IN TRESPASS.

Treſpaſs.

AS before unto "for damages, as well by occaſion of a certain treſpaſs by the ſaid *A. B.* to the ſaid *C. D.* offered as for his coſts, &c."

IF FOR THE DEFENDANT, SAY,

For the defendant.

"FOR his coſts about his defence in a certain action at the ſuit of the ſaid, &c."

IN COVENANT.

Covenant.

AS before unto "for damages, &c. by occaſion of a breach of a certain covenant between the ſaid *A. B.* and *C. D.* lately made, &c."

THE FORM OF A WRIT OF ELEGIT.

Againſt lands and tenements.

"THE commonwealth, &c. greeting: Whereas *A. B.* at our court, &c. before our judges (or juſtices) held, hath recovered againſt *C. D.* the ſum of , which to the ſaid plaintiff was adjudged for a certain debt or damages, "as before" ;" and the ſaid *A. B.* hath choſen to have delivered to him all the goods and chattels of the ſaid *C. D.* ſaving only the oxen and beaſts of his plough, and alſo a moiety of all his lands and tenements in your bailiwick, to have and to hold the goods and chattels aforeſaid as his own proper goods, and the ſaid moiety as his freehold to him and his aſſigns, until he ſhall have levied thereof the debt and damages aforeſaid: Therefore we command you that you cauſe to be delivered, all the goods and chattels of the ſaid *C. D.* ſaving the oxen and beaſts of his plough, and alſo a moiety of all his lands and tenements in your bailiwick, whereof he at the day of obtaining the ſaid judgment was ſeized, or at any time afterwards, by reaſonable price and extent, to have and to hold the ſaid goods and chattels, to him the ſaid *A. B.* as his own proper goods and chattels, and the ſaid moiety as his freehold, to him and his aſſigns, until he ſhall have levied thereof the debt and damages aforeſaid, and that you certify our ſaid judges (or juſtices) under your own ſeal, and the ſeals of thoſe by whoſe oath you ſhall make this extent and appraiſement, how you execute this writ, the day of . And have then there this writ, &c." *a*

A CAPIAS AD SATISFACIENDUM.

Againſt the body.

"THE commonwealth, &c. greeting: We command you that you take *A. B.* late of , if he be found within your bailiwick, and him ſafely keep, ſo that you have his body before our judges (or juſtices) of our court, &c. the day of to ſatisfy *C. D.* the ſum of which the ſaid *C. D.* hath recovered againſt him for debt, alſo, &c." as before.

IN CASE, TRESPASS, OR COVENANT, AS IN THE FIERI FACIAS.

Forms of the returns.

WHICH ſaid writs ſo iſſued, ſhall be executed by the ſheriff or other officer to whom the ſame ſhall be directed, and ſhall be returned according to the reſpective forms hereafter mentioned, to wit:

THE RETURN OF A FIERI FACIAS.

Fieri facias executed.

"BY virtue of this writ to me directed, I have cauſed to be made the within

(a) 13 *Edw'd* 1, *ch.* 18.

mentioned ſum of , of the goods and chattels of the within named *A. B.* which ſaid ſum of before the judges (or juſtices) within mentioned, at the day and place within contained, I have ready, as that writ requires."

OR,

Where no goods. "THE within named *A. B.* hath no goods or chattels within my bailiwick, whereof I can make the ſum within mentioned."

OR,

Where part is levied. "BY virtue, &c. I have cauſed to be made of the goods and chattels of the within named *A. B.* the ſum of , which I have ready to render to the within named *C. D.* in part of the debt and damages within mentioned: And I do further certify, that the ſaid *A. B.* hath no more goods and chattels within my bailiwick, whereof at preſent I can make the reſidue of the ſaid debt and damages, as by the ſaid writ is required."

RETURN OF A WRIT OF "ELEGIT."

Elegit executed. "INQUISITION indented, taken at , in the county aforeſaid, the day of , in the year of our Lord , before me *E. F.* ſheriff in the county aforeſaid, by virtue of a writ to me directed, and to this inquiſition annexed, and by the oath of *A. B. C.* &c. good and lawful men of my bailiwick, who being charged and ſworn upon their oath do ſay, that *A. B.* in the ſaid writ to this inquiſition annexed, named, the day of the caption of this inquiſition, was poſſeſſed of the goods and chattels following, as of his own proper goods, to wit, of the price of which I, the ſaid ſheriff, have cauſed to be delivered to the ſame *C. D.* to hold to him as his own proper goods and chattels, in part of ſatisfaction of his debt and damages aforeſaid, in the ſaid writ mentioned: and further the ſaid jurors upon their oath do ſay, that the ſaid *A. B.* at the time of rendering the judgment aforeſaid, was ſeized in his own *demeſne*, as of fee, of and in [*here name the houſes and lands*] with the appurtenances of the annual value in all the iſſues beyond repriſes of pounds, acres of which, or thereabouts, are a true and equal moiety of all and ſingular the lands, tenements, and hereditaments whatſoever, in the county aforeſaid, of the ſaid *A. B.* which ſaid moiety, I the ſaid ſheriff, the day aforeſaid, to *C. D.* in the ſaid writ named, at a reaſonable extent, have delivered to hold to him and his aſſigns, as his freehold, according to the form of the act in that caſe made and provided, until he ſhall have levied the reſidue of the debt and damages aforeſaid, as the writ aforeſaid requires; and further the ſaid jurors upon their oath do ſay, that the ſaid *A. B.* at the time of giving the judgment aforeſaid, had not, nor at the day of taking this inquiſition, hath any other or more goods and chattels, lands or tenements in the county aforeſaid, to the knowledge of the jurors aforeſaid. In teſtimony whereof, as well I the ſaid ſheriff, as the jurors aforeſaid, to this inquiſition have ſeverally put our ſeals, the day, year, and place above mentioned."

RETURN OF A CAPIAS AD SATISFACIENDUM.

Capias executed. "BY virtue of this writ to me directed, I have taken the within named *A. B.* whoſe body before the judges (or juſtices) within named, at the day and place within contained, I have ready to ſatisfy *C. D.* of the debt and damages within mentioned, as within to me is commanded."

OR,

Not executed. "THE within named *A. B.* is not found within my bailiwick."

In what manner another execution may be iſſued where the firſt has not been ſerved, or has not been ſatisfied. II. WHEN any writ of execution ſhall iſſue, and the party at whoſe ſuit the ſame is iſſued, ſhall afterwards deſire to take out another writ of execution at his own proper coſts and charges, the clerk may iſſue the ſame, if the firſt writ be not returned and executed; and where, upon a *capias ad ſatisfaciendum* the ſheriff ſhall return that the defendant is not found, the clerk may iſſue a *fieri facias*; and if upon a *fieri facias*, he ſhall return that the party hath no goods, or that only part of the debt is levied, in ſuch caſe it ſhall be lawful to iſſue a *capias ad ſatisfaciendum* upon the ſame judgment; and where part of a debt ſhall be levied upon an elegit, a new elegit ſhall iſſue for the reſidue; and where *nihil* ſhall be returned upon any writ of elegit, a *capias ad ſatisfaciendum*, or *fieri facias* may iſſue, and ſo *vice verſa*; and where one judgment is obtained againſt ſeveral defendants, execution thereon ſhall iſſue as if it were againſt one defendant, and not otherwiſe. †

† *Act concerning Jeofails, ch. 76, ſec. 5, plaintiff limited to 10 years in ſuing out executions and in moving againſt ſheriffs.*

III. IF a tenant, by elegit be evicted of his title in the lands, tenements or hereditaments which he holds by virtue of any extent thereof, by judgment had againſt him, otherwiſe than by his own fraud or default, before ſatisfaction ſhall be made him for his debt, or damages, and coſts, he ſhall and may have a writ of *ſcire facias* againſt the debtor, his heirs, executors, or adminiſtrators; and may thereafter ſue out ſuch other writ of execution for the reſidue of his debt or damages, and coſts, as ſhall appear to remain unpaid, as if no execution had been theretofore iſſued.

Tenant by elegit, if evicted may have a ſcire facias againſt his debtor, and another execution for his debt, &c.

IV. WHEN any judgment or recognizance ſhall be extended, the ſame ſhall not be avoided or delayed by occaſion that any part of the lands or tenements extendible are or ſhall be omitted out of ſuch extent.

No extent to be avoided for omiſſion of part of the lands extendible.

V. SAVING always to the party and parties whoſe lands ſhall be extended, his and their heirs, executors, and aſſigns, his and their remedy for contribution againſt ſuch perſon and perſons, whoſe lands are or ſhall be omitted out of ſuch extent, from time to time.

Saving remedy of contribution.

VI. *PROVIDED neverthelefs*, That this act or any thing therein contained, ſhall not be conſtrued to give any extent or contribution againſt any heir or deviſee within the age of twenty-one years, during ſuch minority of ſuch heir or deviſee, for or in reſpect of any lands to ſuch heir or deviſee deſcended or deviſed, further or otherwiſe than might have been made before the making of this act.

Infants lands excepted.

VII. IF any perſon being in priſon charged in execution, ſhall happen to die in execution, the party or parties at whoſe ſuit or to whom ſuch perſon ſhall ſtand charged in execution, for any debt or damages recovered, his or their executors or adminiſtrators may after the death of the perſon ſo dying in execution, lawfully ſue forth and have new execution againſt the lands and tenements, goods and chattels, or any of them, of the perſon ſo deceaſed.

If a debtor dies in priſon, creditors may have new executions againſt his effates.

VIII. *PROVIDED always*, That this act ſhall not extend to give liberty to any perſon or perſons, their executors or adminiſtrators, at whoſe ſuit any ſuch party ſhall be and die in execution, to have or take any new execution, againſt any the lands, tenements or hereditaments of ſuch party dying in execution, which ſhall at any time after the ſaid judgment or judgments be by him ſold in *bona fide*, for the payment of any of his creditors, at whoſe ſuit he ſhall be in execution, and the money paid or ſecured to be paid to any ſuch creditors, with their privity, in diſcharge of his or their debts, or ſome part thereof.

Except his lands bona fide ſold for the payment of his debts.

IX. IF any perſon taken in execution be delivered by privilege of either houſe of aſſembly, ſo ſoon as ſuch privilege ceaſeth, he ſhall return himſelf a priſoner in execution, or be liable to an eſcape. *a*

Perſons in execution delivered by privilege of General Aſſembly to return in execution when that ceaſeth.

X. WHERE judgment ſhall be obtained in any county court or other inferior court of record within this commonwealth, for any debt or damages, and the perſon againſt whom ſuch judgment ſhall be obtained, ſhall remove himſelf or his effects, or ſhall reſide out of the limits of the juriſdiction of ſuch court, it ſhall be lawful for the clerk of the court, where judgment was given, at the requeſt of the party for whom the ſame was rendered, to iſſue any writ of *fieri facias*, or *capias ad ſatisfaciendum*, or any other legal or proper writ of execution or attachment for the non-performance of a decree in chancery (as the caſe may require) in the form and under the teſte herein before preſcribed, and to direct the ſame to the ſheriff of any county, or ſerjeant of any corporation within this commonwealth, where the defendant or debtor, or his goods ſhall be found; which ſaid ſheriff or other officer to whom the ſame ſhall be directed, is hereby empowered and required to ſerve and execute the ſame, and ſhall make return thereof to the court where the judgment was given, in the manner herein before preſcribed and directed. *b*

Executions from a county court may be ſerved in any other county.

XI. NO writ of *fieri facias*, or other writ of execution, ſhall bind the property of the goods againſt which ſuch writ is ſued forth, but from the time that ſuch writ ſhall be delivered to the ſheriff, under ſheriff, coroner, or other officer to be executed; and for the better manifeſtation of the ſaid time, ſuch ſheriff, coroner, or other officer, his deputy or agent, ſhall upon the receipt of any ſuch writ, without fee for doing the ſame, endorſe upon the back thereof, the day of the month and year when he received the ſame; and if two or more writs ſhall be delivered againſt the ſame perſon in the ſame day, that which was firſt delivered ſhall be firſt ſatisfied. If any ſheriff, coroner, or other officer, to whom any execution ſhall be delivered, ſhall fail or neglect to en-

Property in goods bound from delivery of execution to the officer.

(*a*) 1785, *ch.* 55. (*b*) 1748, *ch.* 8, *ſec.* 20.

Time of delivery to be endorsed by the officer.

dorse thereon the day of the month and year when he received the same, every such person, for every such failure, shall be liable on a motion to be made before the court from whence the execution issued, to a penalty not exceeding fifteen *per centum* upon the amount of the said execution if it be for money or tobacco, and if it be for a specific thing, one hundred dollars, to the use of the party injured, upon giving ten days previous notice of such motion; and shall moreover be liable to the action of the party grieved for all damages arising from such failure.

Goods taken by execution when and how to be sold.

XII. ON all executions which have heretofore issued, or shall hereafter be issued, the sheriff or other officer having published notice of the time and place of sale, at the door of the courthouse of his county on some court day, and at some public place near the residence of the debtor, at least ten days before such sale, shall proceed to sell by auction the goods or chattels so taken, or so much thereof as shall be sufficient to satisfy the judgment or decree, for the best price that can be got for the same. *a*

Officer may accept security for goods until the day of sale.

XIII. *PROVIDED always*, That if the owner of such goods and chattels shall give sufficient security to such sheriff or officer, to have the same goods and chattels forthcoming at the day of sale, it shall be lawful for the sheriff or officer to take a bond from such debtor and securities, payable to the creditor, reciting the service of such execution, and the amount of the money or tobacco due thereon, and with condition to have the goods or chattels forthcoming at the day of sale appointed by such sheriff or officer, and shall thereupon suffer the said goods and chattels to remain in the possession, and at the risk of the debtor until that time; and if the owner of such goods and chattels, shall fail to deliver up the same, according to the condition of the bond, or pay the money or tobacco mentioned in the execution, such sheriff or officer shall return the bond to the office of the clerk of the court from whence the execution issued, to be there safely kept, and to have the force of a judgment; and thereupon it shall be lawful for the court, where such bond shall be lodged, upon motion of the person to whom the same is payable, his executors or administrators, to award execution for the money and tobacco therein mentioned, with interest thereon from the date of the bond, till payment and costs, provided the obligors, their executors or administrators, or such of them against whom execution is awarded, have ten days previous notice of such motion; and upon such execution, or on any execution awarded on any bond, which shall hereafter be given to replevy an estate taken by a former execution, the sheriff or officer shall not take any security either to have the goods forthcoming at the day of sale, or for the payment of the money at a future day; but shall levy the same immediately, and keep in his hands the goods and chattels taken thereupon, until he shall have sold sufficient thereof to raise the money and tobacco mentioned in the execution, or the same be otherwise satisfied. *b*

Proceedings on the bonds where the goods are not delivered.

No security to be taken on executions thereon, or on replevy bonds.

XIV. AND for the better direction of such officer, the clerk shall endorse upon any such execution, "that no security of any kind is to be taken."

Forthcoming bonds when to be returned.

XV. IF any sheriff or other officer shall fail to deliver or return any bond taken for the forth coming of property, by virtue of this act, within sixty days after the date thereof,* to the office of the clerk of the court, whence such execution issued, he shall be liable to the same penalty for every month of such failure, to be recovered in the same manner as is directed by law against a sheriff or coroner failing to return an execution. *c*

No security to be taken on executions against sheriffs, coroners, or constables.

XVI. WHEN execution shall issue against the estate of any sheriff, under sheriff, serjeant of a corporation, coroner or constable, or their securities, or the heirs, executors or administrators of either of them, upon a judgment obtained against such sheriff, under sheriff, serjeant of a corporation, coroner, or constable, or securities, or the heirs, executors or administrators of either of them, for money or tobacco received by such sheriff, under sheriff, serjeant of a corporation, coroner or constable, by virtue of any execution or process, levied or executed by him, or them, or for any money collected or received by them in any manner, as sheriffs, serjeants, coroners, or constables, no security for payment of the money or tobacco mentioned in such execution at a future day, or to have the goods forthcoming at the day of sale, shall be taken or received; but the officer taking such estate in execution, shall proceed immediately to the sale thereof, notwithstanding such security shall be tendered; and for the better direction of such officer, the clerk issuing such execution shall endorse thereon,

(*a*) 1787, *ch.* 7. (*b*) 1769, *ch.* 3. 1788, *ch.* 77. * *Time altered by 3d sec. of act of '94, ch.* 176. (*c*) 1791, *ch.* 3, *sec.* 4.

"that no security of any kind is to be taken." In like manner on all executions which may issue against any collector of the poor rates, his heirs, executors or administrators, or against any overseer or overseers of the poor, his, or their heirs, executors or administrators, on any judgment obtained, or which may hereafter be obtained against him or them, for, or on account of any money or tobacco which have or may hereafter come to his or their hands, levied for the support of the poor, the clerk shall endorse "no security to be taken." *a*

Collectors of the poor rates. Overseers of the poor.

XVII. NO sheriff or other officer, to whom any writ of *fieri facias* shall be directed, shall take in execution any slave or slaves, unless the debt and costs mentioned in such *fieri facias* shall amount to the sum of thirty-three dollars, or two thousand pounds of tobacco; provided there be shewn to such sheriff or officer, by the defendant, or any other person, sufficient other goods or chattels of such defendant, within the bailiwick of such sheriff or officer, upon which he may levy the debt and costs mentioned in such *fieri facias*. *b*

In what case slaves may not be seized.

XVIII. WHERE any slave or slaves shall be taken in execution, and sold, the names of such slaves shall be certified on the back of such execution, and returned to and recorded among the records of the court where such execution shall issue. *c*

Names of slaves taken in execution to be endorsed thereon.

XIX. IF the goods taken by any sheriff or other officer, or any part thereof shall remain in his hands unsold, he shall make return accordingly, and thereupon the clerk of the court from whence the execution issued, shall and may, and he is hereby required, to issue a *venditioni exponas* to such sheriff or other officer directed, whereupon the like proceedings shall be had, as might and ought to have been had on the first execution; which writ of *venditioni exponas* shall be in the form following: *d*

When a writ of venditioni exponas shall be issued.

THE commonwealth, &c. greeting; We command you that you expose to sale, those goods and chattels of A. B. *to the value of , which, according to our command, you have taken, and which remain in your hands unsold, as you have certified to our judges (or justices) of our court, to satisfy* C. D. *the sum of , whereof in our said court he hath recovered execution against the said* A. B. *by virtue of a judgment in the said court; and that you have, &c.*"

Form of the writ

XX. WHEN any sheriff or other officer shall serve any writ of execution on slaves, horses, or any live stock, and the same shall not be immediately replevied or restored to the debtor, it shall and may be lawful for such officers, and they are hereby required, to provide sufficient sustenance for the support of such slaves or live stock, until such slaves or stock be sold, or otherwise legally discharged from such execution, and upon the return of any execution, the court may and shall upon the motion of the officer serving the same, settle and adjust what such officer shall be allowed for his expenses incurred by supporting such slaves or stock; and the said officers shall and may be allowed to retain the same out of the money arising from the sale of the said slaves or stock. *e*

Slaves and live stock taken in execution to be supported by the officer.

Expense thereof to be paid out of the proceeds of the sales.

XXI. IF any sheriff shall levy an execution on property, and a doubt shall arise, whether the right of such property is in the debtor or not, such sheriff may apply to the plaintiff, his attorney, or agent, for his bond with good security, for indemnification for the sale of the property seized, which, if the plaintiff, his attorney, or agent refuses or fails to do within a reasonable time after such application, the sheriff or other officer shall be justified in delivering up such property to the party from whose possession the property was taken.

When the officer may demand of the plaintiff bond of indemnity for selling.

XXII. IF the goods or other estate taken in execution, cannot be sold for three-fourths of their value at least, in the opinion of the persons hereafter directed to be appointed for that purpose, it shall and may be lawful for the debtor or debtors, or any of them, to enter into bond with sufficient security, to be approved by the persons aforesaid, to pay the money or tobacco for which execution was so served, and all costs, with lawful interest for the same to such creditor, within twelve months: And on such bond being given, the sheriff or other officer shall restore to such debtor, the goods or estate so taken; and where no such bond and security shall be offered, by the debtor, or any person for him, and the goods or other estate taken in execution, cannot in the opinion of the persons aforesaid, be sold for three-fourths of their value at least, the sheriff or other officer, shall set up and sell the same for money or tobacco, (as the case may be) to be paid at the end of twelve months, and shall take bond of the buyer or buyers, with one or more sufficient securities to pay the same accordingly, with interest, to such creditor. *f*

Where goods cannot be sold for three-fourths of their value, the debtor may give bond and security to pay the debt within twelve months.

Or they may be sold on 12 months credit.

(*a*) 10, *Geo.* 3, *ch.* 3, *sec.* 6. 1791, *ch.* 20, *sec.* 6. (*b*) 1748, *ch.* 8, *sec.* 16. (*c*) 1764, *ch.* 6, *sec.* 7. (*d*) 1748, *ch.* 8, *sec.* 9. 1791, *ch.* 3, *sec.* 6. (*e*) 1772, *ch.* 6, *sec.* 7. (*f*) *Oct.* 87, *ch.* 7, *sec.* 3.

Tenor of the bonds.

XXIII. ALL and every bond or bonds ſo taken in purſuance of this act, ſhall mention that the ſame was or were entered into, for goods or other eſtate taken in execution, and returned to the debtor, or ſold to the obligor (as the caſe may be) and ſhall have the force of judgments, and ſhall alſo be aſſignable; and ſuch ſheriff or other officer taking ſuch bond, ſhall deliver the ſame to the creditor, or his attorney, or return it to the office of the clerk of the court, from whence ſuch execution iſſued, there to be ſafely kept, until demanded by the creditor, or his attorney.* And if the money or tobacco ſhall not be paid according to the condition of any ſuch bond, it ſhall be lawful for the creditor or his aſſignee, or the attorney of ſuch creditor or aſſignee, to lodge the ſame, with an affidavit, that the money or tobacco for which ſuch bond was given, or part thereof, is ſtill due, with the clerk of the court from whence the execution iſſued; and ſuch clerk ſhall and may thereupon iſſue an execution for ſo much as ſhall appear from the ſaid bond and affidavit to be ſtill due; and upon ſuch execution, the ſheriff or other officer ſhall not take any ſecurity, for the payment of the money or tobacco at a future day, but ſhall levy the ſame immediately, and ſell the property on which the execution ſhall be ſo levied, for the beſt price that can be had for the ſame.†

Proceedings thereon.

Where the obligors or obligees die.

XXIV. If any obligor or obligors, obligee or obligees, in any twelve months replevy bond taken on any execution under this act, or aſſignee of any ſuch obligee, (as the caſe may be) ſhall die before ſuch bond ſhall be fully paid, it ſhall and may be lawful for the clerk of any court within this commonwealth, upon the application and oath of the executors or adminiſtrators of any ſuch obligee or aſſignee, that the amount of ſuch bond is not diſcharged, to iſſue a writ of execution againſt every ſuch obligor or obligors, his or their executors or adminiſtrators, and to endorſe thereon "no ſecurity is to be taken." Any law to the contrary notwithſtanding. *a*

Executions thereon, iſſued after payment of the money may be quaſhed.

XXV. *PROVIDED*, That if on return of ſuch execution, the debtor can prove the payment of the money for which ſuch execution was levied, either to the aſſignee or original obligee, before notice of ſuch aſſignment (as the caſe may be) it ſhall and may be lawful for the court to quaſh ſuch execution, or give ſuch other judgment therein as to them ſhall ſeem right, and the perſon in whoſe names ſuch execution iſſued, ſhall moreover be liable to the action of ſuch debtor for damages. And for the better direction of ſuch ſheriff or other officer, the clerk ſhall endorſe upon ſuch execution, that "no ſecurity ſhall be taken:" *Provided*, That nothing in this act contained, ſhall be conſtrued to extend the right of giving ſecurity for payment of the money or tobacco mentioned in ſuch execution at a future day, or to have the goods forthcoming at the day of ſale, to the defendant or defendants, in any judgment or execution not exceeding the ſum of five dollars; or to any execution againſt a ſheriff, coroner, public collector, or other perſon legally authoriſed to receive any part of the public revenue, or their ſecurities; or to any execution againſt any ſuch officer or his ſecurities, for money received by him under an execution or other proceſs; or for any money or tobacco collected or received by him or them, in any manner as ſheriffs or public collectors; nor to attornies receiving the money of their clients; nor to ſecurities under an act, intituled, "*An act to empower ſecurities to recover damages in a ſummary way.*" *b*

In what caſes ſuch bonds ſhall not be taken.

Separate bonds for the ſurplus to be taken to the debtor.

XXVI. WHERESOEVER on a ſale under execution upon twelve months credit, the amount of ſuch ſale ſhall exceed the principal, intereſt, and coſts, the ſheriff or coroner (as the caſe may be) ſhall take a ſeparate bond with ſufficient ſecurity, from the buyer or buyers, for the payment of ſuch exceſs or ſurplus to the debtor, with legal intereſt at the end of twelve months, from the date thereof, and it ſhall be expreſſed in the ſaid bond, that it was given for a ſurplus or exceſs as aforeſaid; and the ſaid ſheriff or coroner (as the caſe may be) ſhall deliver every bond ſo taken to the debtor, his agent, attorney, or other legal repreſentative, or return it to the clerk's office; and it ſhall have the force of a judgment, be aſſignable, and in all things concerning the ſame, be proceeded on in like manner as is above preſcribed, in caſe of bonds given to a creditor. And if the ſheriff or coroner (as the caſe may be) ſhall fail to deliver or return as aforeſaid, any bond ſo taken, within thirty days from the date thereof, he ſhall be liable to the ſame penalty for every month of ſuch failure, to be reco-

* *No penalty in this act for failure. Fine impoſed by 3d ſec. of act of 1794, ch. 176, of this book.* † *See ch. 176. ſec. 7.* *(a)* *1791, ch. 3, ſec. 8.* *(b)* *1763, ch. 3. ſec. 6, and 1787 ch. 3, ſec. 4.*

vered in the same manner as is directed by law against a sheriff or coroner failing to return an execution. *a*

Commissioners to be appointed in each county to value property under execution and to judge of the sufficiency of securities.

XXVII. THE court of every county and corporation within this commonwealth, shall appoint nine persons to act as judges of the value of property, and the sufficiency of securities that may be offered under this act; and no sale under execution shall be made, but in the presence of at least three of the said persons, except in the cases herein after mentioned. *Provided always*, That in any case where the creditor, his agent, or attorney shall be dissatisfied with the sufficiency of the security admitted by such valuers, it shall be lawful for such creditor to appeal to the court to be held for the county or corporation within three months after the return day of the said execution, thereupon giving notice to the debtor or his attorney, and if such court shall be of opinion, that the security so admitted was insufficient, the execution upon which such security was admitted, shall be deemed and taken as a lien upon the goods and chattels of such debtor, and shall not be discharged but upon payment of the debt and costs, or tender of other sufficient security, satisfactory to the court; and moreover the bond and security given by such debtor, shall remain valid until such counter-security be given. There shall be paid by the creditor, his agent, attorney or other representative, to each of the valuers appointed by virtue of this act, sixty-seven cents for each day's attendance at any sale, and no more, let the number of executions be what it may, which shall be taxed in the bill of costs where there is but one execution, and where there shall be more than one, in the bill of costs on each execution, proportioned to the amount thereof, and reimbursed to him accordingly; and such attendance shall not be taxed for more than three valuers in any case. And where any property shall be returned to the debtor, or sold on twelve months credit under this act, such persons shall give the sheriff or other officer a certificate, that in their opinions, such property would not sell for three-fourths of its real value, and that the security taken was sufficient; and such certificate shall be returned with the execution by the sheriff, and shall be a full indemnification for him therein. Every person appointed by a court to judge of the value of property taken in execution, and of the sufficiency of securities offered agreeably to the directions of this act, shall before he proceeds to act under such appointment, take an oath before the court of the county or corporation, or a magistrate thereof, "that he will truly and impartially execute the trust reposed in him by this act." *b*

Assignors of bonds given in pursuance of this act, responsible if the obligors are insufficient.

XXVIII. WHERE any bond directed or permitted to be given by this act, shall be assigned, and execution issued thereon against the original obligor or obligors, and on such execution there shall be a return by the sheriff or other officer, that there were no goods, or not sufficient goods of the obligor or obligors, to make the debt and costs, it shall be lawful for the clerk who issued such execution, to issue a second execution against the assignor or assignors of such bond, for the debt mentioned therein, or such part thereof as shall appear to be still due, on which execution there shall be similar proceedings to those on an execution against the original obligors.†

Debtors in execution may tender goods to the officer.

XXIX. WHERE any writ of *capias ad satisfaciendum* has been or shall be served on any debtor, it shall be lawful for such debtor to tender to the sheriff or other officer serving the same, slaves or personal property to the value of the debt and costs, for which such execution has issued, or may hereafter issue, which property the said sheriff or other officer shall receive and proceed to sell in like manner as is herein directed, in the case of goods taken in execution upon a writ of *fieri facias*, and shall thereupon discharge such debtor out of custody: *Provided always*, that if such property so tendered, shall not be sufficient to satisfy the debt or damages, and costs, or shall be under any lien or incumbrance, so as that the whole cannot be sold, a new *capias ad satisfaciendum*, or *fieri facias*, at the option of the plaintiff, shall issue for any balance, and the clerk of the court from which such execution originally issued, shall upon the return of the sheriff of the insufficiency or incumbrance as aforesaid, issue a new *capias ad satisfaciendum*, or *fieri facias*, if required. But where such property shall have been under any incumbrance, the debtor shall not be at liberty to tender slaves or personal estate on a second *capias ad satisfaciendum* being served, or in case of a *fieri facias* issued in consequence of such return, to avail himself of the privileges of this act. *c*

(*a*) 1788, *ch.* 77. (*b*) 1787, *ch.* 7, *sec.* 5, *and* 1788, *ch.* 77, *sec.* 8. † *By act of* 1795. *pa.* 11, *remedy given assignors v. obligors.* (*c*) 1787, *ch.* 7. 1788, *ch.* 77, *sec.* 3.

Nothing in this act to extend to distresses for rents.

XXX. NOTHING in this act contained shall be construed to extend to any proceedings that may be had in consequence of any distress made, or to be made, for any rent reserved and due, or which may hereafter become due upon any demise, lease or contract, whatsoever. *a*

Commissioners to be amenable to the county courts.

XXXI. THE valuers shall be amenable to their respective county or corporation courts, and at the discretion of such courts may be deprived of their office, for neglect of duty or malfeasance therein; and upon the death, resignation, or removal from office, of any such valuer, the vacancy shall be supplied by new appointment of the county or corporation court in which it shall happen.

Vacancies how to be supplied

To be summoned to attend sales.

XXXII. WHEN the sheriff shall under any execution have fixed the time and place for the sale of the property taken under such execution, he shall summon three of the commissioners appointed to value the property, and ascertain the sufficiency of securities, to attend at the time and place of such sale; if only two of the said commissioners attend, they shall after the hour of two o'clock, choose one of the by-standers to assist them in such valuation; if only one of the said commissioners shall attend, he shall at the same time, and in the same manner, choose one of the bystanders, and they shall together, choose a third to value such property as aforesaid; if neither of the said commissioners shall attend, the sale shall be postponed until another day, which shall not be longer than ten days, when the same proceedings shall be had as are directed to take place on the day first appointed for the sale. The sheriff shall administer the same oaths to the persons chosen by the commissioners, as are directed by this act, to be administered to the commissioners by the county or corporation courts. *Provided always*, that the said commissioners shall not be summoned upon any *fieri facias*, where the debt, or damages and costs, shall not exceed thirty-three dollars, unless the defendant, his agent, attorney, or other legal representative, shall require the same; and where the commissioners shall not be summoned, and the debt or damages shall not exceed the sum aforesaid, the sale shall proceed, and the sheriff or other officer possess and exercise the same power of valuation, as the commissioners would have possessed and exercised, had they been summoned, but shall receive no reward for such valuation. *b*

Method of proceeding when they do not attend.

In what cases they shall not be summoned, unless the defendants require it.

Valuation of property to be made known to any person desiring it. Sheriff's fee for taking the bond; commissions.

XXXIII. THE valuers shall make known in every case to any person requiring the same, before or at the sale, the valuation by them made of the goods or other estate taken in execution; the sheriff or coroner, (as the case may be) shall be allowed for taking the bonds to the creditor, sixty-two cents, and no more; for proceeding to sell, if the property be actually sold or the debt paid, the commission of five *per centum* on the first three hundred dollars, or ten thousand pounds of tobacco, and two *per centum* upon all sums above that, and one half of such commission, where he shall have proceeded to sale, and the defendant shall have replevied; and no other commission, fee or reward, shall be allowed upon any execution, except for the expense of removing and keeping the property taken.

No principal to be received a security.

XXXIV. UPON actual sale of any property under this act, no principal debtor shall become the security.

Surplus money to be paid to the debtor.

XXXV. WHERESOEVER on a sale for cash or tobacco, made under any execution, the amount of such sale shall exceed the principal, interest and costs, the sheriff or other officer shall pay such excess or surplus to the debtor, his executors, administrators or agent; and if any sheriff or other officer, shall fail or refuse to pay such surplus or excess when required, such sheriff or other officer, his or their security, or securities, his or their executors or administrators, shall each and every of them, be liable to the like penalty and judgment in favor of the said debtor, as is prescribed and directed by law in favor of the plaintiff against the sheriff, for not paying the principal, interest and costs, levied on an execution. *c*

Money levied by execution to be restored to the defendant obtaining an injunction to the judgment.

XXXVI. WHEN any sheriff, or other officer under any execution, shall receive the whole, or any part of the money or tobacco for which the said execution was issued, and the person against whom such execution may have issued, his executors or administrators, shall obtain an injunction to such execution, or for any part of the money or tobacco mentioned therein, before the money or tobacco so received by such sheriff or officer is paid to the plaintiff, his agent or attorney, or his executors or administrators; in every such case, the sheriff or other officer, his executors or administrators, shall repay the person or per-

(*a*) 1787, *ch.* 7, *sec.* 6. (*b*) 1788, *ch.* 37, *sec.* 11. (*c*) 1791, *ch.* 3, *sec.* 2.

ſons againſt whom ſuch execution iſſued, his or their executors, adminiſtrators or agent, the money or tobacco ſo received, or ſuch part thereof as may be enjoined; and if any ſheriff, or other officer, his or their executors, or adminiſtrators, ſhall fail or refuſe when required, to pay ſuch ſum of money or tobacco ſo received and enjoined, to the perſon having a right to demand the ſame, ſuch ſheriff or other officer, and their ſecurities, his, and their executors and adminiſtrators, and every of them, ſhall be liable to the like penalty and judgment, in favor of the perſon, his executors or adminiſtrators, by whom the ſaid injunction is obtained, as is directed by law in favor of the plaintiff, againſt the ſheriff, for not paying money or tobacco levied on an execution. *a*

When priſoners may have liberty of the rules.

XXXVII. IF any perſon or perſons taken or charged in execution, ſhall enter into bond with good and ſufficient ſecurities, under a reaſonable penalty, upon condition that he or they ſhall not depart, or go out of the rules or bounds of the priſon to which he or they be committed, it ſhall be lawful for the ſheriff or officer in whoſe cuſtody ſuch priſoner ſhall be, to permit him or them to go out of the priſon, and return at their pleaſure. *b*

Method of inſolvent debtors diſcharge.

XXXVIII. AND for the relief of inſolvent debtors, who ſhall be taken in execution, and to prevent the long impriſonment of unfortunate people, which can be of no benefit, but rather a diſadvantage to their creditors: *Be it further enacted*, that if any perſon ſhall hereafter be taken, or charged in execution, in any ſuit commenced, or proſecuted in any court of record within this commonwealth, it ſhall be lawful for any judge or juſtice of the ſaid court, or of the court of that county or corporation to whoſe jail ſuch perſon ſhall be committed, by warrant under his hand and ſeal, to command the jailor or keeper of the ſaid priſon, to bring before the ſaid court if ſitting, or if not ſitting, in caſe it be a ſuperior court, before any two judges of the ſaid court, at a certain time and place therein to be appointed, and if an inferior court, before any two juſtices of the ſaid court, at their county courthouſe, likewiſe on a certain day to be appointed in ſuch warrant, the body or bodies of ſuch perſon or perſons ſo in priſon as aforeſaid, together with a liſt of the ſeveral executions, with which he or ſhe ſhall ſtand charged in the ſaid jail, which warrant ſuch jailor is hereby required to obey; and reaſonable notice thereof ſhall be given to the party or parties, his or their executors, adminiſtrators, or agents, at whoſe ſuit ſuch priſoner or priſoners ſhall be in execution. And every ſuch priſoner coming before the ſaid court, judges or juſtices, as the caſe ſhall be, ſhall ſubſcribe and deliver in a ſchedule of his whole eſtate, and make oath and ſwear to the effect following, that is to ſay: *c*

Priſoners oath.

I, A. B. *do in the preſence of Almighty God, ſolemnly ſwear or affirm, (as the caſe may be) that the ſchedule now delivered, and by me ſubſcribed, doth contain to the beſt of my knowledge and remembrance, a full, juſt, true, and perfect account and diſcovery of all the eſtate, goods and effects unto me any ways belonging, and ſuch debts as are to me owing, or to any perſon in truſt for me; and of all ſecurities and contracts whereby any money may hereafter become payable, or any benefit or advantage accrue to me, or to my uſe, or to any other perſon or perſons in truſt for me, and that I, or any other perſon or perſons in truſt for me, have not land, money, ſtock, or any other eſtate, real or perſonal, in poſſeſſion, reverſion, or remainder, of the value of the debt or debts with which I am charged in execution; and that I have not directly or indirectly ſold, leſſened, or otherwiſe diſpoſed of in truſt, or concealed all, or any part of my lands, money, goods, ſtock, debts, ſecurities, contracts, or eſtate, whereby to ſecure the ſame, or to receive or expect any profit or advantage therefrom; or to defraud or deceive any creditor or creditors to whom I am indebted, in any wiſe howſoever.* So help me GOD. *d*

Priſoners diſcharge. But creditors may afterwards have executions againſt his eſtate.

XXXIX. WHICH ſchedule being ſo ſubſcribed in open court, if taken in court, and if not, in the preſence of two judges or juſtices, ſhall be returned to the clerk of the court, there to remain for the better information of the creditors; and after delivering in ſuch ſchedule, and taking ſuch oath, ſuch priſoner ſhall be diſcharged by warrant from ſuch court, or from two judges or juſtices, (as the caſe may be) which warrant ſhall be ſufficient to indemnify ſuch ſheriff or officer againſt any eſcape or eſcapes, action or actions whatſoever, which ſhall, or may be brought or proſecuted againſt him or them by reaſon thereof. And if any action ſhould be commenced againſt any ſheriff or officer

(*a*) 1791, *ch.* 3, *ſec.* 3. (*b*) 1748, *ch.* 8, *ſec.* 21, 24. (*c*) 1769, *ch.* 3, *ſec.* 7. 1753, *ch.* 1, *ſec.* 31. *This clauſe altered by* 2*d ſec. of act of* 1794, *ch.* 176. *See ch.* 176, *ſec.* 13. *Oath of an inſolvent may be adminiſtered by two juſtices in any caſe.* (*d*) 1748, *ch.* 8, *ſec.* 24.

No insolvent debtor to be imprisoned on account of any judgment obtained before he took the oath, unless a capias be issued by order of the court.

for performing his duty in pursuance of this act, he may plead the general issue, and give this act in evidence. *Provided always*, that notwithstanding such discharge, it shall be lawful for any creditor or creditors, by judgment at any time afterwards, to sue out a writ of *scire facias*, to have execution against any lands or tenements, goods or chattels, which such insolvent person shall thereafter acquire or be possessed of. But no person delivering in such schedule, and having taken the said oath, shall again be imprisoned on account of any judgment which shall have been obtained against him, previous to the time of taking such oath, unless by virtue of a *capias ad satisfaciendum*, directed to issue by the court in which the said judgment shall have been rendered. *a*

Debtors estate how to be disposed of.

XL. ALL the estate which shall be contained in such schedule, and any other estate which may be discovered to belong to the prisoner, for such interest therein, as such prisoner hath, and may lawfully depart withal, shall be vested in the sheriff of the county, wherein such lands, tenements, goods or chattels shall lie or be found;* and such sheriff is hereby authorised, empowered and required, within sixty days after the taking the said oath, ten days previous notice of the time and place of sale being given, to sell and convey the same to any person or persons whatsoever, for the best price that can be got for the same, and the money arising from such sale, shall be by such sheriff or officer paid to the creditor or creditors, at whose suit such prisoner or prisoners shall be imprisoned, saving to every such prisoner, his or her necessary apparel and utensils of trade. And if any sheriff or other officer shall fail to pay the money arising from such sale according to law, he shall be liable to the same penalty, to be recovered in the same manner, and by the same persons, as if the said money had been levied by a *fieri facias*. *b*

His debts and effects how to be recovered.

XLI. WHEN any insolvent debtor shall be discharged pursuant to this act, and the schedule subscribed and delivered in by such prisoner, shall contain articles of money or tobacco, due to such prisoner, or of goods, chattels, or estates belonging to him, and in the possession of any other, in that case the clerk of the court, with whom such schedule is directed to remain, shall immediately issue a summons against each of the persons named as debtors in the said schedule, and against such others as are therein said to have possession of any goods, chattels, or estates of the property of the prisoner, reciting the sum of money, or the quantity of tobacco he or she is charged with, or the particular goods, chattels or estates said to be in his possession, and requiring him or her to appear at the next court, and to declare on oath, whether the said money or tobacco, or any part thereof, be really due to such prisoner, or whether such goods, chattels, or estate be really in his or her possession, and are the property of such prisoner; and if the person so summoned, shall fail to attend according to such summons, or to shew good cause for his non-attendance, it shall be lawful for the court to enter judgment against every such person, for the money, tobacco, goods, chattels, or estates, in such schedule mentioned, together with costs of suit, a lawyer's fee excepted; and if any such person so summoned, shall appear and be sworn, judgment shall be entered for so much of the money, tobacco, goods, chattels or estates, as he or she shall acknowledge to be due, or to be of the property of such prisoner, and in his possession, with costs as aforesaid; which judgment shall be entered in the name of the sheriff, who may thereupon proceed to levy the executions, as in other cases, and to dispose of the money, tobacco, goods, chattels or estates so recovered, in the same manner as the estate contained in the schedule, is hereby directed to be disposed of. *c*

XLII. *PROVIDED always*, That where any such garnishee shall not acknowledge the whole money or tobacco to be due, or all the goods, chattels or estates mentioned in the schedule, to be of the property of the prisoner, and in his possession, the sheriff or such prisoner, at any time after, unless barred by any of the acts, limiting the time for the commencement of actions, shall be at liberty to claim the residue by legal process, and the former judgment as to such garnishee, shall be no further bar in such process, than for so much money or tobacco, or such goods, chattels and estates as the garnishee is thereby ordered to pay or deliver.

Sheriff to retain his expenses out of the debtor's estate.

XLIII. EVERY sheriff shall be allowed to retain out of the effects of such insolvent debtor, before the distribution thereof, all reasonable expenses in re-

(*a*) 1769, *ch.* 3, *sec.* 7. 1748, *ch.* 8, *sec.* 26. * *See acts of* 1798, *ch.* 19, *sec.* 8, *which directs that the personal estate contained in the schedule shall be transferred by the debtor, and his real estate conveyed before his discharge.* (*b*) 1769, *ch.* 3, *sec.* 9. 1748, *ch.* 8, *sec.* 28. (*c*) 1769, *ch.* 3, *sec.* 10.

covering such money, tobacco, goods, chattels and estates as aforesaid, including such a fee to a lawyer for the proceeding against the garnishee, as shall be judged reasonable by the court, and if such effects be not sufficient, he shall be reimbursed such expenses by the creditor or creditors, if more than one, in proportion to their demands.

Insolvent debtors prison fees to be paid by the creditor.

XLIV. WHERE such insolvent person shall not be able to satisfy and pay his ordinary prison fees, the sheriff or jailor may demand and receive of the party or parties, at whose suit such insolvent person shall be imprisoned, all such fees as shall become due until such creditor shall agree to release such prisoner; and if the creditor upon notice given to him or her, his or her attorney, or agent, shall refuse to give security to the sheriff or jailor, for the payment of such prison fees, or shall fail to pay the same when demanded, such sheriff or jailor shall discharge such debtor out of prison. *a*

But may afterwards be recovered of the debtors.

XLV. *PROVIDED nevertheless*, That such insolvent prisoner shall be afterwards liable to the action of the creditor to recover such fees, and such creditor shall and may, notwithstanding his consent to the releasing such prisoner, at any time afterwards, sue out a *scire facias* to have a new execution against the lands and tenements, goods and chattels of such prisoner, in case he or she shall afterwards become possessed of any. *b*

Prison fees to be paid by the creditor, whose execution is first served.

XLVI. WHEN any debtor is in custody on several executions, it shall not be lawful for such debtor to demand any more or other dieting, than if he was in custody on one execution only; nor shall any sheriff or jailor demand or receive more than the rate fixed by law, in case of a debtor confined on one execution only, which shall be paid by the creditor, at whose suit such debtor was first taken. *c*

Execution duly served, valid, although not directed to any sheriff.

XLVII. AN execution appearing to be duly served in other respects shall be deemed good, although it be not directed to any sheriff. *d*

Distringas in detinue may be superseded as to the specific thing.

XLVIII. IF a *distringas* issue in detinue, the court for good cause shewn, may direct it to be superseded, so far as it relates to the specific thing, and to be executed for the alternative price or value only, if fixed in the judgment, or if the same shall afterwards be fixed by a writ of inquiry. *d*

Sheriff liable when a replevy or forthcoming bond is quashed, as faulty.

XLIX. IF a replevy or forthcoming bond be quashed as faulty, the sheriff taking the same, shall be at all times liable for damages to the party injured, or his representative. *d* †

Penalty on sheriff for failing to return an execution.

L. ‡ AND whereas doubts have arisen in what manner judgment should be rendered against any sheriff, coroner, or serjeant of a corporation, who shall fail to return an execution to the office from whence it issued, on or before the return day thereof; *Be it enacted*, that where any writ of execution, or atttachment for not performing a decree in chancery, shall come into the possession of any sheriff, coroner, or serjeant of a corporation, and he shall fail to return the same to the office from whence it was issued, on or before the return day thereof, it shall be lawful for the court, ten days previous notice being given, upon the motion of the party injured, to fine such sheriff, coroner, or serjeant of a corporation at their discretion, in any sum not exceeding five dollars *per* month, for every hundred dollars contained in the judgment or decree, on which the execution or attachment, so by him detained, was founded, and so in proportion for any greater or lesser sum, counting the aforesaid months from the return day of the execution or attachment, to the day of rendering judgment for the said fine. *e*

Method of proceeding against sheriff failing to pay money levied by executions.

LI. IF any sheriff, under sheriff, or other officer, shall make return upon any writ of *fieri facias* or *venditioni exponas*, that he hath levied the debt, damages or costs, as in such writ is required, or any part thereof, and shall not immediately pay the same to the party, to whom the same is payable, or his attorney, or shall return upon any writ of *capias ad satisfaciendum*, or attachment, for not performing a decree in chancery for payment of any sum of money, or tobacco, that he hath taken the body or bodies of the defendant or defendants, and hath the same ready to satisfy the money and tobacco in such writ mentioned, and shall have actually received such money or tobacco of the defendant or defendants, or have suffered him, her or them to escape, with the consent

(*a*) 1772, *ch.* 13, *sec.* 1. 1748, *ch.* 8, *sec.* 28. (*b*) 1769, *ch.* 3, *sec.* 8. (*c*) 1789, *ch.* 13, *sec.* 38. (*d*) 1788, *ch.* 67, *sec.* 75, 76, 78. † *See ch.* 176, *sec.* 6, (*other remedy granted.*) ‡ *See ch.* 176, *sec.* 8, *like remedy granted against other officers, and also against executors or administrators, and securities of either.* (*e*) 1791, *ch.* 3, *sec.* 5.

of such sheriff, under sheriff, or officer, and shall not immediately pay such money or tobacco to the party to whom the same is payable, or his attorney, then, or in either of the said cases, it shall and may be lawful for the creditor, at whose suit such writ of *fieri facias, venditioni exponas, capias ad satisfaciendum*, or attachment shall issue, upon a motion made in the next succeeding general court, or other court from whence such writ shall issue, to demand judgment against such sheriff, officer, or under sheriff, or securities of such under sheriff, for the money or tobacco mentioned in such writ, or so much as shall be returned levied on such writs of *fieri facias* or *venditioni exponas*, with interest thereon, at the rate of fifteen *per centum per annum*, from the return day of the execution, until the judgment shall be discharged; and such court is hereby authorised and required to give judgment accordingly, and to award execution thereon; provided such sheriff or officer have ten days previous notice of such motion. *a*

Creditors to appoint agents in the counties in which executions are served.

LII. AND whereas it is unreasonable that sheriffs should be obliged to go out of their counties to give notice to creditors at whose suit any person may be in the custody of such sheriff, or to pay money levied by execution: *Be it therefore enacted*, that where any execution shall be delivered to the sheriff of any other county, than that where any creditor resides, such creditor shall name some person in the county where the execution is to be levied, to be his, her, or their agent, for the particular purpose of receiving the money on such execution, and for giving to, and receiving from the sheriff, any notices which may be necessary relating thereto, and payments made, and notices given to such agent, shall be as effectual, as if made or given to the creditor. And if any creditor shall fail to appoint such agent, no judgment shall be entered against the sheriff for non-payment of the money and tobacco mentioned in such execution, unless a demand thereof shall have been first made of such sheriff in his county by the creditor, or some other person having a written order from him: Nor in case of failure in appointing such agent, shall the sheriff or prisoner be obliged to give notice previous to the discharge of such prisoner, either for want of security for his prison fees, or upon his taking the oath of an insolvent debtor. But such prisoner shall be discharged in those cases respectively, without any notice to be given to the creditor so failing. *b*

Executions may be issued on decrees in chancery.

LIII. AFTER obtaining a final decree for lands, slaves, or money, or things of a specific nature, in any court having chancery jurisdiction, the clerk of such court shall upon the request of the party obtaining such decree, issue any writ of execution, either a *fieri facias, capias ad satisfaciendum, habere facias possessionem*, or any judicial process which may now issue from any court of common law, according to the nature of the case, for carrying the said decree into effect; which writ shall issue in the name of the commonwealth, and bear teste and be signed by the clerk of the court; and all process so issued, shall be executed and returned to the clerk's office from which the same issued, from term to term, on the return days thereof, by the officer or officers to whom the same shall be directed, and shall have the same operation, and possess the same force to all intents and purposes, as similar process, issued upon judgments at common law. The officer or officers to whom any such process is directed, shall be subject to the like penalties for misconduct or neglect, and the court shall exercise in this and in all cases relating to such process, the same powers, as if the said process had issued upon a judgment obtained at common law. But nothing herein contained, shall prohibit any party from proceeding to carry any order or decree in chancery into execution, in any manner, in which he might avail himself before the passing of this act. *c*

Goods on leased premises not liable to execution until the rent in arrear is paid or tendered.

LIV. NO goods or chattels whatsoever, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or will, or otherwise, shall at any time hereafter be liable to be taken by virtue of any writ of execution, or on any pretence whatsoever, unless the party so taking the same, shall, before removal of the goods from off such premises, pay or tender to the landlord, or lessor thereof, or his agent, all the money or tobacco due for the rent of the said premises, at the time of taking such goods or chattels in execution. *Provided nevertheless*, that such rent arrears do not amount to more than one year's rent, and if more be due, then the party suing out such execution, paying or tendering to such landlord, or his agent, one

Proviso,

(*a*) 175, *ch.* 1, *sec.* 3, 6. 1763, *ch.* 5, *sec.* 1. *See ch.* 80, *sec.* 25. 1789, *ch.* 13, *sec.* 37. (*b*) 1769, *ch.* 3, *sec.* 13. *See ch.* 80, *sec.* 24. (*c*) 1787, *ch.* 10, *sec.* 4.

year's rent, may proceed to execute his judgment; and the sheriff or officer serving the same, is hereby empowered and required to levy and pay to the plaintiff, as well the money or tobacco so paid for rent as the execution money. *a*

Repealing clause.

LV. ALL acts, or parts of acts, coming within the purview of this act, shall be, and are hereby repealed: *Provided always*, that nothing in this act, shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

LVI. *PROVIDED also*, That all executions issued under any former act, shall go on to be satisfied, or replevied as such former act directs; and all twelve months or replevy bonds taken, or which shall be taken under any former act, shall have executions issued thereon, in like manner as is directed in cases of twelve months, or replevy bonds to be taken under this act.

Commencement & duration of this act.

LVII. THIS act shall commence and be in force, from and after the passing thereof, until the first day of *January*, one thousand seven hundred and ninety-five.

CHAP. CLII.

An Act to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 2d of December, 1793.†]

Preamble.

I. WHEREAS it is represented to this present General Assembly, that many county and corporation courts in this commonwealth, have failed to recommend proper persons for officering the militia of the several regiments, battalions and companies within their respective jurisdictions, according to the directions of the act, intituled, "*An act for regulating the militia of this commonwealth*," and it is expedient that the said act should be carried into full effect:

County and corporation courts to recommend officers.

II. *BE it therefore enacted*, That the several county and corporation courts, shall, and they are hereby required, on or before their respective courts, to be held in the month of *May* next, recommend to the governor and council the officers necessary to complete the regiments, battalions and companies within their respective jurisdictions, pursuant to the directions of the above recited act, recommending the said officers according to their grades and seniority within their respective companies; and in case of failure herein, each and every justice so failing, shall forfeit and pay ten dollars, to be recovered as other penalties incurred by law, for failing to discharge the duties of their respective offices; one moiety whereof shall be applied to the use of the commonwealth, in aid of the contingent fund, and the other to the use of the informant or person suing for the same.

Penalties for neglect.

Vacancies, how to be supplied.

III. *AND be it further enacted*, That all vacancies hereafter happening in the officers of the militia of this commonwealth, shall be supplied by appointment of the governor, with the advice of the privy council, on recommendation from the respective county and corporation courts. Any thing in the said recited act to the contrary, notwithstanding.

Part of the act of 1792 repealed.

IV. SO much of the said act as authorises the adjutant-general to convene the inspectors of brigades for the purpose of receiving instructions, shall be, and the same is hereby repealed.

Commissioned officers to be trained and instructed.

V. *AND be it further enacted*, That the commissioned officers of the several regiments shall meet twice in every year within their respective regimental districts, for the purpose of being trained and instructed by the brigade inspectors. The days and places of meeting to be fixed on by the commanding officers of the brigades to which the regiments belong. The officers thus assembled, shall each continue two days, and no longer, every time they shall be called out. Every officer failing to attend such meeting, on being summoned, not having a reasonable excuse, to be adjudged of by a court-martial, shall forfeit and pay five dollars, to be appropriated as the other fines are by the said act.

Part of the act of 1792 repealed.

VI. *AND be it further enacted*, That the seventh section of the said recited act, shall be, and is hereby repealed.

Fines on non-commissioned officers and soldiers for not attending musters.

VII. *AND be it further enacted*, That instead of a fine of fifty cents upon any non-commissioned officer or soldier, for failing to appear at muster, according to the directions of the above recited act, a fine of seventy-five cents shall

(*a*) 1748, *b.* 10, *se.* 5, 6. † *See chs.* 146, & 153, *and acts of* 1795, *b.* 1.

be impoſed. If any non-commiſſioned officer or private ſhall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the ſame ſhall be tried, may, if it appear reaſonable, from the indigent circumſtances of the delinquent, remit the fine incurred by him; provided every ſuch delinquent, who hath a firelock of any kind, ſhall make it appear, that he brought the ſame to the muſter.

On infants and apprentices.

VIII. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular ſervice by law required of them, ſhall be paid by the parent, guardian, or maſter.

Muſters of companies.

IX. THERE ſhall be a muſter of each company of militia once in every two months, except the months of *December*, *January*, *February*, and *March*, in every year.

Training the militia in frontier counties may be diſpenſed with.

X. AND whereas it is improper that the militia in the frontier counties, ſhould be drawn from their dwellings in times of danger, merely for the purpoſe of training; *Be it enacted*, That the commanding officers of the brigades on the frontiers of this ſtate, may diſpenſe with the execution of this law, ſo far as relates to training the militia in ſuch companies, battalions or regiments within their commands, as they ſhall judge expedient; and they ſhall inſtruct their brigade inſpectors accordingly.

Liſts of fines, when to be delivered to the collectors.

XI. LISTS of fines ſhall be delivered to the ſheriffs on or before the thirty-firſt day of *December*, inſtead of the firſt day of *January* in every year.

Exemption of millers from militia duty;

XII. THE exemption of millers from militia duty, under the above recited act, ſhall be conſtrued only to extend to ſuch perſons as are actually and neceſſarily employed in the management of water griſt mills, legally eſtabliſhed.

Of Ferrymen;

XIII. ALL ferrymen, actually and neceſſarily employed as ſuch, ſhall be, and they are hereby exempted from militia duty.

Of Quakers and Menonites.

XIV. AND all Quakers and Menoniſts religiouſly ſcrupulous of bearing arms, and having a certificate from their reſpective ſocieties according to the rules thereof, of their being members of ſuch ſociety, ſhall be, and they are hereby exempted from actual ſervice in the militia; provided they ſhall furniſh a ſubſtitute for ſuch ſervices, to be approved of by the commanding officer of the company.

XV. *AND be it further enacted*, That ſo much of the above recited act, as relates to the exemption of Quakers and Menoniſts from militia duty, is hereby repealed.

Diviſion of the militia into regiments and battalions.

XVI. *AND be it further enacted*, That the county of *Loudoun* ſhall compoſe two regiments and four battalions; that the counties of *Berkeley*, *Culpeper*, *Shenandoah*, *Fauquier*, *Accomack*, *Amherſt*, *Norfolk*, *Halifax*, *Pittſylvania*, *Dinwiddie*, *Mecklenburg*, *Bedford*, *Albemarle*, *Brunſwick*, *Montgomery*, *Wythe*, *Prince William*, *Hanover*, and *Frederick*, ſhall compoſe two regiments and four battalions each; that the counties of *Middleſex* and *Eſſex*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Richmond* and *Weſtmoreland*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Powhatan* and *Cumberland*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Harriſon* and *Randolph*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Charles City* and *New-Kent*, ſhall compoſe each one battalion, which two battalions ſhall conſtitute one regiment; the counties of *Elizabeth City* and *Warwick*, one battalion; and the counties of *York* and *James City*, one battalion, which two battalions ſhall compoſe one regiment; and each of the other counties in this commonwealth, and alſo the city of *Richmond* and borough of *Norfolk*, ſhall compoſe each one regiment, and two battalions.

Number of men in each company.

XVII. A COMPANY of militia eſtabliſhed by virtue of the above recited act, ſhall not exceed one hundred, nor leſs than fifty rank and file. Whenſoever any company diſtrict ſhall contain more than one hundred perſons, ſubject to be inrolled in the militia, by the captain or commanding officer thereof, the ſame ſhall be divided into two diſtricts, to be eſtabliſhed in the ſame manner, as other diſtricts are eſtabliſhed by the ſaid act; which new diſtrict thus formed, ſhall conſtitute an additional company, to the battalion of which it is a part.

Further time allowed for forming battalion and company diſtricts.

XVIII. AND whereas the officers of the militia in ſeveral counties of this commonwealth, have failed to arrange their reſpective counties into diſtricts for the formation of the ſeveral battalions and companies, eſtabliſhed by the "*Act for regulating the militia of this Commonwealth*:" *Be it enacted*, that a further time of eight months, from the paſſing of this act, ſhall be allowed the ſaid officers for arranging the proper diſtricts, purſuant to the directions of the above

recited act. The ſeveral battalions and companies eſtabliſhed by this act, ſhall be arranged into diſtricts in the ſame manner as the battalions and companies eſtabliſhed by the above recited act.

Part of the act of 1792 reſpecting light companies, repealed.

XIX. *AND be it further enacted*, That ſo much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, ſhall be compoſed of men from eighteen to twenty-five years of age, be, and the ſame is hereby repealed.

Rules reſpecting ages of perſons to be inrolled.

XX. *AND be it further enacted*, That in all caſes of doubts reſpecting the age of any perſon inrolled, or intended to be inrolled in any company of militia, the party queſtioning, ſhall prove his age to the ſatisfaction of the officers of the company, within whoſe bounds he may reſide, or a majority of them.

Reſpecting inrolling militiamen removing out of the bounds of their companies.

XXI. *AND be it further enacted*, That every militia-man removing out of the bounds of one company to another, ſhall apply to the commanding officer of the company to which he did belong, who ſhall give him a diſcharge, certifying the claſs to which he belongs, and whether he has ſerved his tour of duty or not, and the time and date of ſaid ſervice; which certificate the ſaid militia-man ſhall produce to the captain or commanding officer of the company, in whoſe bounds he next ſettles, within ten days after his ſettlement, and the ſaid captain or commanding officer is hereby required to inroll him in the numerical claſs, ſpecified in the ſaid certificate. And if the militia-man ſhall fail to produce the certificate as above directed, he ſhall be inrolled in the claſs deſtined to perform the next tour of duty, and the commanding officer of the company refuſing to grant a certificate upon application to him made, ſhall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines impoſed by this act.

Money ariſing under the militia law, how to be appropriated.

XXII. *AND be it further enacted*, That all monies paſſing into the treaſury of this commonwealth, by virtue of this act, and the act "*For regulating the militia of this commonwealth*," ſhall be appropriated as a fund for the purpoſe of ſupporting the neceſſary officers for carrying this law into effect, and of equipping and furniſhing the militia with every neceſſary apparatus for the defence and ſecurity of the ſtate; the ſurplus, if any, to be ſubject to ſuch other appropriations as the General Aſſembly may from time to time appoint and direct; and the treaſurer of the commonwealth ſhall keep all the monies ariſing from fines under the militia law, ſeparate from all other monies, and keep a ſeparate book of the ſame, and the expenditures thereof; any thing in any former law to the contrary hereof notwithſtanding.

Copies of the laws reſpecting the militia to be furniſhed to the officers.

XXIII. *AND be it further enacted*, That the governor ſhall cauſe a ſufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States*," to be printed and diſtributed throughout this ſtate, ſo that every general and field officer, and every brigade inſpector and captain, be furniſhed with one copy.

Pay, &c. of the militia enliſted for fixed periods.

XXIV. AND whereas it ſometimes happens that the arſenal and other public property is protected by militia, enliſted for a fixed period, in preference to draughts therefrom: And whereas doubts have ariſen, whether guards of the above deſcription are comprehended in the thirty-firſt ſection of the militia law; *Be it enacted*, that the ſaid ſection does comprehend the militia, when called into ſervice, by enliſtment for fixed periods, in like manner, as if they were employed in the uſual manner.

When employed by water.

XXV. *AND be it enacted*, That whenever the public ſervice ſhall require the employment of militia by water, that the ſaid ſervice ſhall be performed for the ſame pay and under the ſame regulations, as is given and eſtabliſhed with reſpect to ſervice by land.

Patrollers, how to be appointed; their duty;

XXVI. *AND be it further enacted*, That the commanding officer of every battalion of militia, or the oldeſt captain in the county where no commanding officer of a battalion ſhall reſide, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer and ſo many men of the militia, as to him ſhall ſeem neceſſary, once in every month, or oftener, if thereto required by ſuch officer, to patrole and viſit all negro quarters, and other places ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling about from one plantation to another, without a paſs from his or her maſter, miſtreſs or owner, and take them before the next juſtice of the peace, who, if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon,

as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrole, the officer of every party shall, once in every month at least, return a report in writing upon oath, to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrole; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed.

pay.

Repealing clause.

XXVII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

XXVIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIII.

An Act supplementary to the Act, to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 10th of December, 1793.]

General officers, how to be commissioned.

I. BE *it enacted by the General Assembly*, That the governor with the advice of council, shall be, and he is hereby authorised and required, to commission the several major-generals, brigadier-generals and adjutant-general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth.*"

How qualified.

II. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit:

I, do swear, that I will be faithful and true to the commonwealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of of the militia of* Virginia, *according to the best of my skill and judgment:* So help me GOD."

Commencement of this Act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIV.

An Act to amend the Act, intituled, "An Act for reducing into one, the several Acts for regulating the Inspection of Tobacco."†

[Passed the 6th of December, 1793.]

Tobacco brought from upper to lower warehouses for storeage, when to be sold by the inspectors.

I. BE *it enacted by the General Assembly*, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storeage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, "*An act for reducing into one, the several acts of Assembly for the Inspection of tobacco.*"

Tobacco burnt in the public warehouses to be paid for by the public.

II. *AND be it further enacted*, That where any warehouse established by the former or present session of Assembly, or which shall be established by any future session of Assembly, shall happen to be burnt, the loss sustained thereby shall be made good and repaid to the several persons injured, by the General Assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given: *Provided always*, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for

Proviso.

† *See ch.* 135.

ſtoreage, ſhall be of an older date than ſix months, the tobacco ſhall not be paid for by the public, but the owner or proprietor thereof ſhall bear the loſs.

III. *AND be it further enacted,* That it ſhall and may be lawful for the inſpectors annually to preſent to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouſes are reſpectively ſituated, aſcertaining the quantity of tobacco received into ſuch warehouſe or warehouſes, and alſo the quantity ſhipped in each year; and thereupon if it ſhall appear to the auditor that provided all the tobacco ſo received within the ſpace of the year, had been ſhipped by the owners, that there would have been a ſufficient ſum received to have diſcharged their reſpective ſalaries as eſtabliſhed by law, then and in ſuch caſe it ſhall and may be lawful for the auditor to iſſue his warrant for the amount of their reſpective ſalaries, to be paid out of any money in the public treaſury, ariſing from the ſurplus on tobacco; any law to the contrary notwithſtanding. Inſpectors to receive the full amount of their ſalaries when the tobacco inſpected, if ſhipped, would have produced a ſufficiency.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CLV.

An Act to amend the Act, intituled, "An Act reducing into one, the ſeveral Acts for regulating the Inſpection of Flour and Bread."†

[Paſſed the 4th of December, 1793.]

I. BE *it enacted,* That all caſks wherein flour ſhall be packed, ſhall be weighed, and the tare marked thereon. And if any perſon ſhall put a falſe or wrong tare on any caſk of flour, to the diſadvantage of the purchaſer, he or ſhe ſhall forfeit for every caſk ſo falſely tared, eighty-three cents, and the inſpector, or his deputy, or aſſiſtant, upon ſuſpicion, or at the requeſt of the purchaſer, ſhall and is hereby required to unpack any caſk of flour, and if the caſk wherein flour is packed, be falſely tared, the miller or bolter ſhall pay the charges of unpacking and repacking, over and above the penalties impoſed by this act, and by the act, intituled, "*An act reducing into one, the ſeveral acts for regulating the inſpection of flour and bread,*" but otherwiſe the ſaid charges ſhall be paid by the inſpector or the purchaſer, if the trial be made at his requeſt. The penalty hereby impoſed, ſhall and may be recovered, and ſhall be payable as in the ſaid recited act is directed, of, and concerning the penalties therein impoſed. Caſks to be weighed, & tare marked thereon. Penalty for a falſe tare. How recoverable.

II. THAT part of the penalties which is to go to the uſe of the commonwealth, ſhall be paid to the inſpector at the place where the offence ſhall be diſcovered, who ſhall annually to the court of his county, held in the month of *September*, render a fair and juſt account thereof, upon oath, a copy whereof ſhall be certified by the ſaid court, and being ſo certified, ſhall be tranſmitted to the auditor of public accounts, by their clerk, who ſhall debit the ſaid inſpector therewith, and the ſaid inſpector ſhall annually pay the amount thereof, after deducting a commiſſion after the rate of ſix *per centum*, into the public treaſury, on or before the firſt day of *January* in each year; and in caſe of failure to make ſuch payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent ſheriffs. An account in like manner, ſhall be rendered by each inſpector, at the next *September* court held in his county, of all the penalties heretofore paid to him, to be certified and tranſmitted as aforeſaid, and he ſhall thereafter pay the part belonging to the commonwealth, in like manner, and he ſhall be entitled to the ſame commiſſion, and be liable in caſe of failure of payment, to the ſame proceedings, as is herein before directed and preſcribed in other caſes. That part of the penalties payable to the commonwealth, how to be collected and accounted for.

III. EVERY inſpector failing to render the account herein before required, at the time, and in the manner herein before mentioned, ſhall be incapable of being re-appointed to the ſaid office of inſpector of flour, by his ſaid county court. Penalty on inſpectors failing to render accounts of penalties received.

† *See ch.* 117, *and* 1795, *ch.* 7. 1797, *ch.* 7.

CHAP. CLVI.

An Act for amending the Act, intituled, "An Act for reducing into one, the ſeveral Acts concerning the Fees of certain Officers, and declaring the Mode of diſcharging the ſaid Fees and County levies."

[Paſſed the 4th of December, 1793.]

Preamble. WHEREAS that part of the ſixteenth ſection of the act of laſt ſeſſion of Aſſembly, intituled, "*An Act reducing into one the ſeveral acts concerning the fees of certain officers, and declaring the mode of diſcharging the ſaid fees and county levies,*" which empowers the judges of the ſuperior courts (the general court excepted) to make ſuch allowances from time to time to their reſpective officers as they ſhall think reaſonable, taking into account the time paſt for which no allowance hath been made by the General Aſſembly, hath been conſtrued to empower the judges of the diſtrict courts to make the ſaid allowances:

Part of the act of 1792 repealed. II. *BE it therefore enacted*, That the ſaid part of the ſixteenth ſection ſhall be, and is hereby repealed; except ſo far as it may relate to the high court of appeals and high court of chancery.

Fees allowed to the clerk of the high court of chancery. III. AND whereas it appears that ſundry ſervices of the clerk of the high court of chancery, formerly provided for, are not noticed in the ſaid recited act of the laſt ſeſſion of Aſſembly; *Be it further enacted*, that it ſhall and may be lawful for the clerk of the ſaid high court of chancery, in addition to the fees allowed him by the ſaid recited act, to demand, receive, and take the ſeveral fees hereinafter mentioned and allowed for any buſineſs by him done ſince the paſſage of the ſaid recited act, or hereafter to be done by virtue of his ſaid office, that is to ſay:

	Dols.	Cts.
For every writ of *ſuperſedeas* or *ſcire facias*,	0	43
For taking bond on iſſuing a writ of *ſuperſedeas*, *certiorari*, or for an appeal, or any other bond,	0	43
For every other writ whatſoever,	0	35
For entering the ſheriff's return in the rule book,	0	35
For entering the perſonal appearance of the plaintiff or defendant, or the appearance of an attorney for either party,	0	18
For entering ſecurity for coſts for perſons out of the country,	0	35
For every rule entered in the rule book,	0	35
For a copy of every rule,	0	18
For every order in court,	0	18
For a copy of the ſame,	0	18
For filing papers for each party,	0	26
For docketing every cauſe on the docket (to be charged but once)	0	18
For entering every continuance on the docket,	0	18
For the filing a declaration and every plea or demurrer in any cauſe to the making up of an iſſue, directed by the high court of chancery, to be tried at the bar of the ſaid court,	0	35
For every trial, ſwearing the jury and witneſſes, and recording a general verdict,	0	87
For adminiſtering an oath or affirmation in court, except witneſſes to a jury,	0	18

To public notaries. IV. AND whereas it alſo appears that ſome of the fees to public notaries, formerly provided for by law, have been omitted in the act of laſt ſeſſion, intituled, "*An act for appointing public notaries;*" *Be it therefore further enacted*, that it ſhall and may be lawful for every public notary, in addition to the fees allowed him by the ſaid laſt recited act, to demand, receive, and take the following fees, to wit; for every atteſtation, proteſtation, and all other inſtruments of publication, under his ſeal of office, the ſum of eighty-ſeven cents, and no more.

Commencement of this act. V. THIS act ſhall commence and be in force, from and after the paſſing thereof.

* *See ch.* 115.

CHAP. CLVII.

An Act to amend the Act, intituled, "An Act concerning Coin, and for other Purposes."

[Passed the 6th of December, 1793.]

I. BE *it enacted by the General Assembly*, That so much of the act, intituled, "*An act concerning coin, and for other purposes*," as relates to *German* gold and cut silver coin, shall be, and is hereby repealed. Part of the act of 1792, respecting German gold and cut silver, pealed.

II. THIS act shall commence in force, from and after the first day of *March* next. Commencement of this act.

CHAP. CLVIII.

An Act to amend the Act, "Concerning Grand-Juries, Petit-Juries, and Venire-Men."†

[Passed the 9th of December, 1793.]

I. WHEREAS, under the existing law, concerning grand juries, petit-juries, and venire-men, the grand-juries of the district, county, and corporation courts, are not in positive and explicit terms directed to be citizens of this state, whereby it hath sometimes happened, that persons not citizens of this commonwealth, have been summoned and impannelled as grand-jurors in the said courts: For remedy whereof, Preamble.

II. *BE it enacted*, That hereafter every grand-juror, summoned to attend any district, county, or corporation court, or impannelled to serve in the same, shall, in addition to the other requisites prescribed by the said act, "*Concerning grand-juries, petit-juries, and venire-men*," be also a citizen of this commonwealth. Grand-jurors must be citizens.

III. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this Act.

CHAP. CLIX.

An Act to amend an Act, reducing into one, the several Acts to oblige Vessels coming from Foreign Parts to perform Quarantine.‖

[Passed the 5th of December, 1793.]

I. WHEREAS by the act, intituled, "*An act reducing into one, the several acts to oblige vessels coming from foreign parts to perform quarantine*," no provision is made to compel persons coming into this commonwealth by land, from places infected with contagious diseases, to perform quarantine: For remedy whereof, Preamble.

II. *BE it enacted*, That the governor, with advice of the council, shall appoint persons to superintend the performance of quarantine, in such places, and from time to time, as he shall judge necessary; the person so appointed, shall examine all persons coming into this commonwealth by land, from places infected with any contagious diseases, and compel them to perform a quarantine of so many days, and under such regulations, as shall be directed and prescribed by the governor, with advice of council, for the preservation of the health of the citizens of this commonwealth. Superintendants of quarantine to be appointed for persons coming by land into the state from infected places.

III. AND whereas by the said act, the master or owner of a vessel is compelled to defray the expenses attending their vessel, after quarantine is performed, which in some cases is unreasonable: *Be it therefore enacted*, that the governor, with advice of council, be, and is hereby empowered to exempt the owner from the payment of such expenses, whenever he shall think it right and just so to do. Executive may exempt owners of vessels from payment of expenses of quarantine.

IV. *AND be it further enacted*, That the vessels which have lately performed quarantine, be, and they are hereby released from the payment of the charges which accrued thereon. Vessels which have lately performed it, exempted from expenses.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

† *See ch.* 73. ‖ *See ch.* 129, *and acts of* 1795, *ch.* 17.

CHAP. CLV.

An Act to amend the Act, intitled, "An Act for ascertaining the Salaries to the Officers of Civil Government."

[Passed the 5th of December, 1793.]

Part of the act of 1792 repealed.

I. BE it enacted, That so much of the act of the last session of the General Assembly, intitled, "*An act for ascertaining the salaries of the officers of the civil government*," as relates to the salary of the clerk of the general court, shall be, and the same is hereby repealed.

Salary of the clerk of the general court for ex officio services.

II. *AND be it further enacted*, That the clerk of the said court shall receive for his ex-officio services, the sum of two hundred and fifty dollars *per annum*.

Vacancy during vacation, how to be supplied.

III. IN case of a vacancy in the office of clerk of the general court, during vacation, any three judges of the said court (of whom the senior justice shall be one) shall appoint a clerk, who upon taking the oath required by law, before any justice of the peace, shall continue in office, until a clerk shall be appointed by the said court. *Provided nevertheless*, That the clerk of the general court now in office, may continue to hold the same until the next meeting of the general court; any thing in any law to the contrary thereof, notwithstanding.

Present clerk to continue in office till the next court.

Allowance to the chancellor for employing a clerk.

IV. *AND be it further enacted*, That the present judge of the high court of chancery, shall during his continuance in office, be allowed a sum, not exceeding two hundred and fifty dollars *per annum*, for the purpose of employing a clerk.

Commencement of this act.

V. THIS act shall commence in force, from and after the first day of *January* next.

CHAP. CLXI.

An Act to amend an Act, intituled, "An Act to empower the High Sheriff to proceed in a summary Way, against their Deputies."†

[Passed the 11th of December, 1793.]

Preamble.

I. WHEREAS the laws heretofore passed, have in many instances been found inadequate to indemnify the sheriffs of this commonwealth against the conduct and default of their deputies, and in most cases they have been obliged to submit to a recovery first had and obtained against them before they could legally proceed against their deputies, whereby much injury and injustice has arisen to the sheriffs: *Be it therefore enacted*, that where any fine, amercement, penalty or judgment, has been assessed or rendered, or which may be assessed or rendered against any sheriff heretofore or now in office, or which may hereafter come into office, his heirs, executors or administrators, for or on account of any default or misconduct of any deputy of such sheriff, it shall and may be lawful for the court of the county, whereof such sheriff hath been, now is, or shall be sheriff, or for the district court including such county, upon motion to them made by such sheriff, his heirs, executors or administrators, to give judgment against such deputy, and his securities, their heirs, executors or administrators, for the full amount of all such fines, amercements, penalties or judgments, and to award execution for the same; provided that such deputy and his securities, their heirs, executors or administrators have ten days previous notice of such motion.

Sheriff's remedy against his deputy, and his executors and securities after judgment against such sheriff.

When he may obtain judgment against his deputy, &c. before judgment is rendered against himself.

II. *AND be it further enacted*, That where any deputy sheriff heretofore or now in office, or which may hereafter come into office, hath been or shall be found in arrears, for any money, tobacco or other thing received, or which ought to be received by such deputy, by virtue of his office, and for which the principal of such deputy, his heirs, executors or administrators, is or may be chargeable, and shall not immediately pay or deliver the same to the person or persons entitled thereto, it shall and may be lawful for either of the said courts, upon motion to them made by such sheriff, his heirs, executors or administrators, to give the same judgment against such deputy, and his securities, their heirs, executors or administrators, as such sheriff, his heirs, executors or administrators, might by motion against him or them, on account of such arrears, misconduct or default, be liable to, and to award execution for the same; pro-

† *See ch.* 80, *sec.* 25 *and* 27.

vided that such deputy and his securities, their heirs, executors or administrators, have ten days previous notice of such motion. *Provided nevertheless*, that no deputy sheriff, his heirs, executors or administrators, shall be subject to a motion made by the principal of such deputy, his heirs, executors or administrators, where a recovery has been had, or may be obtained against such deputy sheriff, his heirs, executors or administrators, by any person or persons whatsoever, before such motion. Proviso. Proviso.

III. *AND be it further enacted*, That on all executions issuing on judgments obtained by any sheriff heretofore, or now in office, or which may hereafter come into office, his heirs, executors or administrators, against any deputy heretofore or now in office, or which may hereafter come into office, and his securities, their heirs, executors or administrators, or either of them, the clerk issuing such execution, shall, for the direction of the officer, to whom the same is directed, endorse, that "no security is to be taken," and such officer on levying the same, shall govern himself accordingly. No security to be taken on judgments obtained by sheriffs against their deputies, &c.

IV. ALL acts or parts of acts coming within the purview of this act, shall be, and are hereby repealed. Repealing clause.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CLXII.

An Act to fix the Time of Meeting of the General Assembly.

[Passed the 6th of December, 1793.]

BE *it enacted*, That the meeting of the General Assembly, shall hereafter be on the second Tuesday in *November*, in every year; any law to the contrary thereof, notwithstanding.

CHAP. CLXIII.

An Act for regulating the Police of Towns in this Commonwealth, and to restrain the Practice of Negroes going at Large.

[Passed the 10th of December, 1793.]

I. WHEREAS great inconveniences have arisen in many, if not all the towns within this commonwealth, from the practice of hiring negroes and mulattoes, who pretend to freedom, but are in fact slaves: For remedy whereof, Preamble.

II. *BE it enacted by the General Assembly*, That from and after the passing of this act, every free negro or mulatto, who resides in, or is employed to labour within the limits of any city, borough, or town, shall be registered and numbered in a book to be kept for that purpose by the clerk of the said city, borough, or town, which register shall specify his or her age, name, colour and stature, by whom, and in what court the said negro or mulatto was emancipated; or that such negro or mulatto was born free. A copy of the said register, signed by the clerk, and attested by one alderman or town magistrate, shall be annually delivered to the said negro or mulatto, for which copy the clerk shall receive twenty-five cents, to be paid by the person receiving the same. Free negroes and mulattoes residing or employed in certain towns, &c. to be registered and numbered; and each of them annually furnished with a certificate thereof.

III. ANY person harbouring or employing any negro or mulatto, who has not a certified copy of the said register, shall forfeit and pay for each offence five dollars to the owner of such negro or mulatto, and if there be no owner, to the informer; to be recovered by warrant before any alderman or magistrate, and shall be moreover liable to an action for damages at the suit of the party grieved. Penalty for employing them without.

IV. *AND be it further enacted*, That in case any negro or mulatto, who resides in or is employed to labour, in any city, borough, or town, shall neglect to procure such certificate, it shall be lawful for any alderman or magistrate, to commit to jail such negro or mulatto, there to remain till such copy is produced and the jailor's fees paid. Magistrates to commit those who neglect to procure such certificates.

V. AND for the prevention of free negroes and mulattoes going at large in the several counties of this commonwealth, *Be it further enacted*, That no free negro or mulatto shall be allowed to go at large, or hire himself or herself to labour in any county, without having his or her certificate registered in the clerk's office of the county wherein he or she resides, and having a certified copy of the Free negroes and mulattoes in the country not to go at large or hire themselves without being registered

said certificate. For registering and granting such certificate, the clerk shall be allowed twenty-five cents.

Penalty for employing them without.

VI. ANY person employing or harbouring any negro or mulatto, coming within the purview of this act, shall forfeit and pay for each offence five dollars, to the use of the informer, to be recovered by a warrant before a justice of the peace, and shall be moreover liable to an action for damages at the suit of the party grieved.

To renew their certificate, once in three years.

VII. EVERY such free negro or mulatto, shall once in every three years, obtain a new certificate, under the same rules and regulations, as are prescribed for obtaining the first.

Or may be committed to jail.

VIII. AND in case any negro or mulatto, who resides in or is employed to labour in any county, shall neglect to procure such certificate, it shall be lawful for any magistrate in the said county to commit to jail such negro or mulatto, there to remain till such certificate is produced and the jailor's fees paid.

Commencement of this Act.

IX. THIS act shall commence and be in force, from and after the first day of *January* next.

CHAP. CLXIV.

An Act to prevent the Migration of Free Negroes and Mulattoes into this Commonwealth.

[Passed the 12th of December, 1793.]

How they may be apprehended and sent out of the state.

I. BE *it enacted*, That it shall not be lawful for any free negro or mulatto to migrate into this commonwealth, and every free negro or mulatto who shall come into this commonwealth contrary to this act, shall and may be apprehended and carried by any citizen before some justice of the peace of the county where he shall be taken; which justice is hereby authorised to examine, send and remove every such free negro or mulatto out of this commonwealth, into that state or island from whence it shall appear he or she last came; and for this purpose, the sheriff or other officer, and other persons, may by such justice be employed within the commonwealth, upon the same terms as are by law directed in the removal of criminals from one county to another. And every free negro or mulatto who shall come or be brought into this commonwealth by water from any country, state or island, may and shall be exported to the place from whence he or she came, or was brought, and the charges attending the same shall be paid by the importer; to be recovered by motion in the name of the commonwealth, upon ten days previous notice thereof in any court of record.

Penalty for bringing them into the state.

II. EVERY master of a vessel, or other person who shall bring into this commonwealth by water or by land, in any vessel, boat, land carriage, or otherwise, any free negro or mulatto, shall forfeit and pay for every such person so brought, the penalty of one hundred pounds lawful money; one half to the commonwealth, and the other half to the person who shall inform thereof; to be recovered by action of debt or information in any court of record, and the defendant in every such case shall be ruled to give special bail.

Exception.

III. THIS act shall not extend to masters of vessels bringing into this state any free negro or mulatto employed on board and belonging to such vessel, and who shall therewith depart, nor to any person travelling into this state, having any free negro or mulatto as a servant.

Slaves brought from Africa or the West-India islands to be sent out of the state.

IV. *AND be it further enacted*, That in case any slave shall be brought or come into this state from *Africa* or the *West-India* islands, directly or indirectly, upon information thereof given to any justice of the peace, it shall be his duty to cause such slave to be apprehended immediately and transported out of this commonwealth, and the expense attending such transportation, shall be paid by the person importing such slave, recoverable in the name of the justice directing such slave to be transported, by warrant before a single magistrate.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the first day of *January* next.

CHAP. CLXV.

An Act for eſtabliſhing ſeveral new Ferries.†

[Paſſed the 22d of November, 1793.]

I. BE *it enacted by the General Aſſembly*, That public ferries ſhall be conſtantly kept at the following places, and the rates for paſſing the ſame as followeth, that is to ſay: From the land of *Moſes Sutton*, in the county of *Harriſon*, acroſs the weſt fork of *Monongahela* river, to the land of *John Owen* on the oppoſite ſhore, the price for a man four cents, and for a horſe the ſame; from the land of *John Keller*, in the county of *Hampſhire*, acroſs *Patterſon's* creek, to his land on the oppoſite ſhore, the price for a man ſix cents, and for a horſe the ſame; from the land of *John Hix*, in the county of *Campbell*, acroſs *Staunton* river, to the land of *Joſeph Eckhols*, deceaſed, on the oppoſite ſhore, the price for a man four cents, and for a horſe the ſame; from the commons in the town of *Milton*, acroſs *Rivanna* river, to the lands of *Thomas Mann Randolph*, junior, on the oppoſite ſhore, (to be kept by *Jacob Ogleſby*) the price for a man four cents, and for a horſe the ſame; from the land of *Benjamin Lewis*, acroſs *Greenbrier* river, to the land of *John Stuart* on the oppoſite ſhore, the price for a man ſix cents, and for a horſe the ſame; from the land of *Chriſtiana Selſer*, in the county of *Monongalia*, acroſs *Cheat* river, to her land on the oppoſite ſhore, the price for a man four cents, and for a horſe the ſame; and from the land of *Thomas Reade Rootes*, in the county of *Hanover*, acroſs *Pamunkey* river, to his land on the oppoſite ſhore, the price for a man four cents, and for a horſe the ſame. Public ferries eſtabliſhed acroſs the weſt fork of Monongahela river, Patterſon's creek and Staunton, Rivanna, Greenbrier, Cheat, and Pamunkey rivers.

II. AND for the tranſportation of wheel-carriages, tobacco, cattle, and other beaſts, at the places aforeſaid, the ferry keepers may demand and take the following rates, that is to ſay: For every coach, chariot or waggon, and the driver thereof, the ſame as for ſix horſes; for every cart or four wheel chaiſe, and the driver, the ſame as for four horſes; for every two wheel chaiſe or chair, as for two horſes; for every hogſhead of tobacco, as for one horſe; for every head of nett cattle, as for one horſe; and for every ſheep, goat, lamb, or hog, one fifth part of the ferriage for one horſe, and no more. Rates.

III. IF any ferry keeper ſhall demand or receive any greater rates than are hereby allowed for the ferriage or carriage of any thing, he ſhall for every ſuch offence, forfeit and pay to the party grieved, the ferriages demanded or received, and two dollars; to be recovered with coſts before a juſtice of the peace of the county, where the offence ſhall be committed. Penalty for demanding more than the legal rates.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Tueſday*, the 11th Day of *November*, in the Year of our Lord, 1794. 1794.

CHAP. CLXVI.

An Act concerning Appointments to Civil Offices.

[Paſſed the 24th of November, 1794.]

I. BE *it enacted by the General Aſſembly*, That no ſenator or delegate, ſhall during the time for which he was elected, be appointed to any civil office under the authority of the commonwealth, which ſhall have been created, or the emoluments whereof ſhall have been encreaſed or decreaſed during ſuch time.

II. THIS act ſhall be in force, from and after the paſſing hereof. Commencement of this act.

† *See ch.* 116.

be impoſed. If any non-commiſſioned officer or private ſhall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the ſame ſhall be tried, may, if it appear reaſonable, from the indigent circumſtances of the delinquent, remit the fine incurred by him; provided every ſuch delinquent, who hath a firelock of any kind, ſhall make it appear, that he brought the ſame to the muſter.

On infants and apprentices.

VIII. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular ſervice by law required of them, ſhall be paid by the parent, guardian, or maſter.

Muſters of companies.

IX. THERE ſhall be a muſter of each company of militia once in every two months, except the months of *December*, *January*, *February*, and *March*, in every year.

Training the militia in frontier counties may be diſpenſed with.

X. AND whereas it is improper that the militia in the frontier counties, ſhould be drawn from their dwellings in times of danger, merely for the purpoſe of training; *Be it enacted*, That the commanding officers of the brigades on the frontiers of this ſtate, may diſpenſe with the execution of this law, ſo far as relates to training the militia in ſuch companies, battalions or regiments within their commands, as they ſhall judge expedient; and they ſhall inſtruct their brigade inſpectors accordingly.

Liſts of fines, when to be delivered to the collectors.

XI. LISTS of fines ſhall be delivered to the ſheriffs on or before the thirty-firſt day of *December*, inſtead of the firſt day of *January* in every year.

Exemption of millers from militia duty;

XII. THE exemption of millers from militia duty, under the above recited act, ſhall be conſtrued only to extend to ſuch perſons as are actually and neceſſarily employed in the management of water griſt mills, legally eſtabliſhed.

Of Ferrymen;

XIII. ALL ferrymen, actually and neceſſarily employed as ſuch, ſhall be, and they are hereby exempted from militia duty.

Of Quakers and Menonites.

XIV. AND all Quakers and Menoniſts religiouſly ſcrupulous of bearing arms, and having a certificate from their reſpective ſocieties according to the rules thereof, of their being members of ſuch ſociety, ſhall be, and they are hereby exempted from actual ſervice in the militia; provided they ſhall furniſh a ſubſtitute for ſuch ſervices, to be approved of by the commanding officer of the company.

XV. *AND be it further enacted*, That ſo much of the above recited act, as relates to the exemption of Quakers and Menoniſts from militia duty, is hereby repealed.

Diviſion of the militia into regiments and battalions.

XVI. *AND be it further enacted*, That the county of *Loudoun* ſhall compoſe two regiments and four battalions; that the counties of *Berkeley*, *Culpeper*, *Shenandoah*, *Fauquier*, *Accomack*, *Amherſt*, *Norfolk*, *Halifax*, *Pittſylvania*, *Dinwiddie*, *Mecklenburg*, *Bedford*, *Albemarle*, *Brunſwick*, *Montgomery*, *Wythe*, *Prince William*, *Hanover*, and *Frederick*, ſhall compoſe two regiments and four battalions each; that the counties of *Middleſex* and *Eſſex*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Richmond* and *Weſtmoreland*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Powhatan* and *Cumberland*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Harriſon* and *Randolph*, ſhall each compoſe one battalion, which two battalions ſhall compoſe one regiment; that the counties of *Charles City* and *New-Kent*, ſhall compoſe each one battalion, which two battalions ſhall conſtitute one regiment; the counties of *Elizabeth City* and *Warwick*, one battalion; and the counties of *York* and *James City*, one battalion, which two battalions ſhall compoſe one regiment; and each of the other counties in this commonwealth, and alſo the city of *Richmond* and borough of *Norfolk*, ſhall compoſe each one regiment, and two battalions.

Number of men in each company.

XVII. A COMPANY of militia eſtabliſhed by virtue of the above recited act, ſhall not exceed one hundred, nor leſs than fifty rank and file. Whenſoever any company diſtrict ſhall contain more than one hundred perſons, ſubject to be inrolled in the militia, by the captain or commanding officer thereof, the ſame ſhall be divided into two diſtricts, to be eſtabliſhed in the ſame manner, as other diſtricts are eſtabliſhed by the ſaid act; which new diſtrict thus formed, ſhall conſtitute an additional company, to the battalion of which it is a part.

Further time allowed for forming battalion and company diſtricts.

XVIII. AND whereas the officers of the militia in ſeveral counties of this commonwealth, have failed to arrange their reſpective counties into diſtricts for the formation of the ſeveral battalions and companies, eſtabliſhed by the "*Act for regulating the militia of this Commonwealth*;" *Be it enacted*, that a further time of eight months, from the paſſing of this act, ſhall be allowed the ſaid officers for arranging the proper diſtricts, purſuant to the directions of the above

recited act. The ſeveral battalions and companies eſtabliſhed by this act, ſhall be arranged into diſtricts in the ſame manner as the battalions and companies eſtabliſhed by the above recited act.

Part of the act of 1792 reſpecting light companies, repealed.

XIX. *AND be it further enacted*, That ſo much of the above recited act, as declares that the light companies of grenadiers, light infantry and riflemen, ſhall be compoſed of men from eighteen to twenty-five years of age, be, and the ſame is hereby repealed.

Rules reſpecting ages of perſons to be inrolled.

XX. *AND be it further enacted*, That in all caſes of doubts reſpecting the age of any perſon inrolled, or intended to be inrolled in any company of militia, the party queſtioning, ſhall prove his age to the ſatisfaction of the officers of the company, within whoſe bounds he may reſide, or a majority of them.

Reſpecting inrolling militiamen removing out of the bounds of their companies.

XXI. *AND be it further enacted*, That every militia-man removing out of the bounds of one company to another, ſhall apply to the commanding officer of the company to which he did belong, who ſhall give him a diſcharge, certifying the claſs to which he belongs, and whether he has ſerved his tour of duty or not, and the time and date of ſaid ſervice; which certificate the ſaid militia-man ſhall produce to the captain or commanding officer of the company, in whoſe bounds he next ſettles, within ten days after his ſettlement, and the ſaid captain or commanding officer is hereby required to inroll him in the numerical claſs, ſpecified in the ſaid certificate. And if the militia-man ſhall fail to produce the certificate as above directed, he ſhall be inrolled in the claſs deſtined to perform the next tour of duty, and the commanding officer of the company refuſing to grant a certificate upon application to him made, ſhall incur a penalty of thirty dollars, one half to the informer, the other half to be collected and applied as the other fines impoſed by this act.

Money ariſing under the militia law, how to be appropriated.

XXII. *AND be it further enacted*, That all monies paſſing into the treaſury of this commonwealth, by virtue of this act, and the act "*For regulating the militia of this commonwealth*," ſhall be appropriated as a fund for the purpoſe of ſupporting the neceſſary officers for carrying this law into effect, and of equipping and furniſhing the militia with every neceſſary apparatus for the defence and ſecurity of the ſtate; the ſurplus, if any, to be ſubject to ſuch other appropriations as the General Aſſembly may from time to time appoint and direct; and the treaſurer of the commonwealth ſhall keep all the monies ariſing from fines under the militia law, ſeparate from all other monies, and keep a ſeparate book of the ſame, and the expenditures thereof; any thing in any former law to the contrary hereof notwithſtanding.

Copies of the laws reſpecting the militia to be furniſhed to the officers.

XXIII. *AND be it further enacted*, That the governor ſhall cauſe a ſufficient number of copies of this law, together with the act "*For regulating the militia of this commonwealth*," and the act "*More effectually to provide for the national defence, by eſtabliſhing an uniform militia throughout the United States*," to be printed and diſtributed throughout this ſtate, ſo that every general and field officer, and every brigade inſpector and captain, be furniſhed with one copy.

Pay, &c. of the militia enliſted for fixed periods.

XXIV. AND whereas it ſometimes happens that the arſenal and other public property is protected by militia, enliſted for a fixed period, in preference to draughts therefrom: And whereas doubts have ariſen, whether guards of the above deſcription are comprehended in the thirty-firſt ſection of the militia law; *Be it enacted*, that the ſaid ſection does comprehend the militia, when called into ſervice, by enliſtment for fixed periods, in like manner, as if they were employed in the uſual manner.

When employed by water.

XXV. *AND be it enacted*, That whenever the public ſervice ſhall require the employment of militia by water, that the ſaid ſervice ſhall be performed for the ſame pay and under the ſame regulations, as is given and eſtabliſhed with reſpect to ſervice by land.

Patrollers, how to be appointed;

XXVI. *AND be it further enacted*, That the commanding officer of every battalion of militia, or the oldeſt captain in the county where no commanding officer of a battalion ſhall reſide, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer and ſo many men of the militia, as to him ſhall ſeem neceſſary, once in every month, or oftener, if thereto required by ſuch officer, to patrole and viſit all negro quarters, and other places ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling about from one plantation to another, without a paſs from his or her maſter, miſtreſs or owner, and take them before the next juſtice of the peace, who, if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon,

their duty;

as aforesaid, to receive any number of lashes, not exceeding twenty, on his or her bare back; and in case one company of patrollers shall not be sufficient, more companies may in like manner be ordered for the same service. And after every patrole, the officer of every party shall, once in every month at least, return a report in writing upon oath, to the court of the county, in which he shall reside; and if the said court shall adjudge the said patrollers to have performed their duty according to law, they are thereupon empowered and required to levy fifty cents for every twelve hours each of them shall so patrole; and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure, which fines shall be laid, collected and accounted for, and appropriated as is herein directed, for laying, accounting for, and appropriating the several fines and penalties by this act directed.

pay.

Repealing clause.

XXVII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and the same are hereby repealed.

Commencement of this act.

XXVIII. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIII.

An Act supplementary to the Act, to amend the Act for regulating the Militia of this Commonwealth.

[Passed the 10th of December, 1793.]

General officers, how to be commissioned.

I. BE *it enacted by the General Assembly*, That the governor with the advice of council, shall be, and he is hereby authorised and required, to commission the several major-generals, brigadier-generals and adjutant-general appointed, or who may be hereafter appointed, pursuant to the act "*For regulating the militia of this commonwealth.*"

How qualified.

II. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commissioned in the manner aforesaid, shall, previous to their entering on the execution of their respective offices, take the following oath, (to be administered by a justice of the peace, or the court of the county or corporation in which they respectively reside) to wit:

I, do swear, that I will be faithful and true to the commonwealth of Virginia, *of which I profess myself to be a citizen, and that I will faithfully and justly execute the office of of the militia of* Virginia, *according to the best of my skill and judgment: So help me* GOD."

Commencement of this Act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLIV.

An Act to amend the Act, intituled, "An Act for reducing into one, the several Acts for regulating the Inspection of Tobacco."†

[Passed the 6th of December, 1793.]

Tobacco brought from upper to lower warehouses for storeage, when to be sold by the inspectors.

I. BE *it enacted by the General Assembly*, That where any inspected tobacco shall be brought from an upper to a lower warehouse for the purpose of storeage, and shall remain undemanded in the same for eighteen months from the time of its reception therein, the inspectors at such lower warehouse shall advertise, sell and account for the same in like manner, and under the like regulations as is prescribed by the twenty-eighth section of the act, intituled, "*An act for reducing into one, the several acts of Assembly for the Inspection of tobacco.*"

Tobacco burnt in the public warehouses to be paid for by the public.

II. *AND be it further enacted*, That where any warehouse established by the former or present session of Assembly, or which shall be established by any future session of Assembly, shall happen to be burnt, the loss sustained thereby shall be made good and repaid to the several persons injured, by the General Assembly; and no inspector or inspectors shall be held accountable for the same, in consequence of any receipt by him or them given.

Proviso.

Provided always, That if the receipt for tobacco so burnt and destroyed shall be of an older date than twelve months, and in case of inspected tobacco brought to a lower warehouse for

† *See ch.* 135.

ſtoreage, ſhall be of an older date than ſix months, the tobacco ſhall not be paid for by the public, but the owner or proprietor thereof ſhall bear the loſs.

III. *AND be it further enacted*, That it ſhall and may be lawful for the inſpectors annually to preſent to the auditor of public accounts, a certificate from the courts of the counties wherein the warehouſes are reſpectively ſituated, aſcertaining the quantity of tobacco received into ſuch warehouſe or warehouſes, and alſo the quantity ſhipped in each year; and thereupon if it ſhall appear to the auditor that provided all the tobacco ſo received within the ſpace of the year, had been ſhipped by the owners, that there would have been a ſufficient ſum received to have diſcharged their reſpective ſalaries as eſtabliſhed by law, then and in ſuch caſe it ſhall and may be lawful for the auditor to iſſue his warrant for the amount of their reſpective ſalaries, to be paid out of any money in the public treaſury, ariſing from the ſurplus on tobacco; any law to the contrary notwithſtanding.

Inſpectors to receive the full amount of their ſalaries when the tobacco inſpected, if ſhipped, would have produced a ſufficiency.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

CHAP. CLV.

An Act to amend the Act, intituled, "An Act reducing into one, the ſeveral Acts for regulating the Inſpection of Flour and Bread." †

[Paſſed the 4th of December, 1793.]

I. BE *it enacted*, That all caſks wherein flour ſhall be packed, ſhall be weighed, and the tare marked thereon. And if any perſon ſhall put a falſe or wrong tare on any caſk of flour, to the diſadvantage of the purchaſer, he or ſhe ſhall forfeit for every caſk ſo falſely tared, eighty-three cents, and the inſpector, or his deputy, or aſſiſtant, upon ſuſpicion, or at the requeſt of the purchaſer, ſhall and is hereby required to unpack any caſk of flour, and if the caſk wherein flour is packed, be falſely tared, the miller or bolter ſhall pay the charges of unpacking and repacking, over and above the penalties impoſed by this act, and by the act, intituled, "*An act reducing into one, the ſeveral acts for regulating the inſpection of flour and bread*," but otherwiſe the ſaid charges ſhall be paid by the inſpector or the purchaſer, if the trial be made at his requeſt. The penalty hereby impoſed, ſhall and may be recovered, and ſhall be payable as in the ſaid recited act is directed, of, and concerning the penalties therein impoſed.

Caſks to be weighed, & tare marked thereon. Penalty for a falſe tare.

How recoverable.

II. THAT part of the penalties which is to go to the uſe of the commonwealth, ſhall be paid to the inſpector at the place where the offence ſhall be diſcovered, who ſhall annually to the court of his county, held in the month of *September*, render a fair and juſt account thereof, upon oath, a copy whereof ſhall be certified by the ſaid court, and being ſo certified, ſhall be tranſmitted to the auditor of public accounts, by their clerk, who ſhall debit the ſaid inſpector therewith, and the ſaid inſpector ſhall annually pay the amount thereof, after deducting a commiſſion after the rate of ſix *per centum*, into the public treaſury, on or before the firſt day of *January* in each year; and in caſe of failure to make ſuch payment, the balance due, may be recovered in like manner, as the public taxes are now recoverable from delinquent ſheriffs. An account in like manner, ſhall be rendered by each inſpector, at the next *September* court held in his county, of all the penalties heretofore paid to him, to be certified and tranſmitted as aforeſaid, and he ſhall thereafter pay the part belonging to the commonwealth, in like manner, and he ſhall be entitled to the ſame commiſſion, and be liable in caſe of failure of payment, to the ſame proceedings, as is herein before directed and preſcribed in other caſes.

That part of the penalties payable to the commonwealth, how to be collected and accounted for.

III. EVERY inſpector failing to render the account herein before required, at the time, and in the manner herein before mentioned, ſhall be incapable of being re-appointed to the ſaid office of inſpector of flour, by his ſaid county court.

Penalty on inſpectors failing to render accounts of penalties received.

† *See ch.* 117, *and* 1795, *ch.* 7. 1797, *ch.* 7.

account of a ſucceeding year, and paid out of the perſonal eſtate of the infant, and ſo much and ſuch part thereof may with the approbation of the court, be ſold at public auction to the higheſt bidder, after reaſonable notice has been given of the time and place of ſuch ſale for that purpoſe as ſhall be neceſſary, and the balance appearing on the contrary ſide may be put out to intereſt for the benefit of the ward, upon ſuch ſecurity as the court ſhall direct and approve, or the guardian if it remain in his hands ſhall account for the intereſt, to be computed from the time his accounts were or ought to have been paſſed.

When and how ſuch eſtate ſhall be ſold for that purpoſe.

Balance due to the ward, how to be diſpoſed of.

VII. IT ſhall be lawful for the teſtamentary guardian, provided there be no prohibition in the laſt will and taſtament, to make a leaſe of any lands, tenements, or hereditaments belonging to his ward, reſerving the beſt annual rent and moſt beneficial covenants for any term, ending when the ward ſhall arrive to the age of twenty-one years, or continuing beyond that time as the ward ſhall elect.

Power of teſtamentary guardians to leaſe their wards' lands;

VIII. AND it ſhall be lawful for every ſtatutory guardian in like manner to make a leaſe of any lands, tenements, or hereditaments, belonging unto his ward, for any term, ſo that the ſame does not exceed that period, when his ſaid ward ſhall arrive at the age of fourteen years.

Of ſtatutory guardians.

IX. A TESTAMENTARY guardian if his ward be a truſtee or mortgagee of any lands, tenements or hereditaments, upon petition of one or more of the parties intereſted, to the high court of chancery, by order of ſuch court to be made after hearing, may execute any deed, or perform any other act, which the truſtee or mortgagee if of full age might or could execute or perform, and ſuch deed or other act ſhall be valid, except that he ſhall not be bound by a warranty or other covenant contained in the deed.

Teſtamentary guardians may by order of the court of chancery, execute ſuch deeds as their wards could if of age.

X. A TESTAMENTARY guardian ſhall have the power under the ſame regulations to make or take a ſurrender of a former leaſe, and to take or make a new leaſe as are preſcribed and granted to a ſtatutory guardian, unleſs inconſiſtent with the laſt will and teſtament, ſubject however to be determined or continued by the ward after he or ſhe arrives to full age.

To have the ſame power to receive ſurrenders of leaſes, and to make others as ſtatutory guardians.

XI. IT ſhall be lawful for the court having cognizance of the accounts of any guardian, whether ſtatutory or teſtamentary, upon paſſing the ſame, to make ſuch allowance to the guardian as it ſhall deem a reaſonable compenſation for his attention, care and trouble.

Courts may in paſſing guardians' accounts, make them a reaſonable allowance.

XII. WHERE an orphan ſhall have an eſtate, the profits of which are inſufficient for his or her ſupport, and yet is of ſuch tender years, that the overſeers of the poor cannot prevail upon a proper perſon to accept of the ſame orphan as an apprentice, it ſhall and may be lawful for the guardian or curator, with the approbation of the court, to take from the perſonal eſtate of his ward ſuch ſums of money as are neceſſary for the immediate ſupport of the orphan, until he or ſhe ſhall arrive at an age when the overſeers of the poor can find a ſuitable maſter or miſtreſs for him or her. The courts of each county reſpectively ſhall have full power at their diſcretion, to direct the overſeers of the poor to covenant with the maſter or miſtreſs of any apprentice bound to ſerve under their order, that a ſum not exceeding twenty dollars ſhall be paid to the ſaid apprentice, inſtead of the ſum of twelve dollars heretofore allowed by law.

Where the court may direct part of an orphan's eſtate to be ſold for his ſupport.

Courts may direct overſeers of the poor in binding out orphans, to covenant for the payment to the apprentice of any ſum not exceeding twenty dollars.

XIII. THIS act ſhall commence and be in force from and after the firſt day of *March* next.

Commencement of this act.

CHAP. CLXXIII.

An Act concerning Priſon Breakers.

[Paſſed the 13th of December, 1794]

Preamble.

I. WHEREAS it hath been held that by the common law, the offence of breaking a jail or priſon is in all caſes felony:

In what caſes breaking priſon ſhall be felony.

II. *BE it therefore enacted by the General Aſſembly*, That none from henceforth who being in actual jail, breaketh priſon, ſhall have judgment of life or member for breaking of priſon only, except the cauſe for which he was taken and impriſoned did require ſuch judgment, if he had been convict thereupon, according to the law of the land.

Commencement of this act.

III. THIS act ſhall commence and be in force from the paſſing thereof.

CHAP. CLXXIV.

An Act concerning Debtors and their Securities.

[Passed the 23d of December, 1794.]

Preamble.

I. WHEREAS in many instances creditors have delayed to commence actions on bonds, bills, or promissory notes, executed to them for tobacco or money, until the principal debtor or debtors of such creditors either becoming insolvent or migrating from this commonwealth, the innocent securities of such debtor or debtors have been ultimately compelled to discharge the amount of the money or tobacco due by such bill, bond, or note, without the possibility of being afterwards reimbursed by such principal debtor or debtors: For remedy whereof,

When securities in bonds may require the creditors to commence suits thereon.

II. *BE it enacted by the General Assembly*, That when any person or persons shall hereafter become bound as security or securities by bond, bill, or note, for the payment of money or tobacco, and shall apprehend that his or their principal debtor or debtors is or are likely to become insolvent, or to migrate from this commonwealth, without previously discharging such bond, bill, or note, so that it will be impossible or extremely difficult for such security or securities after being compelled to pay the amount of the tobacco or money which may be due by such bond, bill, or note, to recover the same back from such principal debtor or debtors, it shall and may be lawful for such security or securities, in every such case, provided an action shall have accrued on such bond, bill, or note, to require by notice in writing of his or their creditor or creditors, forthwith to put the bond, bill, or note, by which he or they may be bound as security or securities as aforesaid, in suit; and unless the creditor or creditors so required to put such bond, bill, or note, in suit, shall in a reasonable time commence an action on such bond, bill, or note, and proceed with due diligence in the ordinary course of law to recover a judgment for, and by execution to make the amount of the tobacco or money due by such bond, bill, or note, the creditor or creditors so failing to comply with the requisition of such security or securities, shall thereby forfeit the right which he or they would otherwise have to demand and receive of such security or securities the amount of the money or tobacco which may be due by such bond, bill, or note.

Creditors failing to do so, to lose their remedy against the securities.

Securities and their executors may proceed in the same manner with the executors of the creditor.

III. ANY security or securities, or in case of his or their death, then his or their executors or administrators, may in like manner and for the same cause, make such requisition of the executors or administrators of the creditor or creditors of such security or securities, as it is herein before enacted may be made by a security or securities of his or their creditor or creditors; and in case of failure of the executors or administrators so to proceed, such requisition as aforesaid being duly made, the security or securities, his or their executors or administrators, making the same, shall have the same relief that is herein before provided for a security or securities when his or their creditor or creditors shall be guilty of a similar failure.

Bonds with collateral conditions and those given by guardians, executors and public officers excepted.

IV. *PROVIDED always*, That nothing in this act contained shall be so construed as to affect bonds with collateral conditions, or the bonds which may be entered into by guardians, executors, administrators, or public officers.

Creditors' remedy against his principal debtor, not to be affected.

V. *AND provided also*, That the rights and remedies of any creditor or creditors against any principal debtor or debtors, shall be in no wise affected by this act. Any thing therein to the contrary, or seeming to the contrary, notwithstanding.

Commencement of this act.

VI. THIS act shall commence and be in force, from and after the first day of *March*, which shall be in the year of our Lord, one thousand seven hundred and ninety-five.

CHAP. CLXXV.

An Act supplementary to the Act, intituled "An Act to empower Securities to recover Damages in a Summary Way."†

[Passed the 23d of December, 1794.]

How securities in bonds on which executions

† BE *it enacted by the General Assembly*, That in all cases where execution hath been or shall hereafter be awarded or issued in any of the

† *See ch.* 145.

may be awarded without judgment, may proceed against their principals.

courts of record within this commonwealth, againſt any perſon or perſons as ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, upon any bond, obligation, or recognizance upon which by the laws of this commonwealth execution can be ſo awarded or iſſued without judgment, and the amount of ſuch bond, obligation, or recognizance, or any part thereof, or the debt or damages due by reaſon thereof, or any part thereof, hath been paid or diſcharged under the ſaid execution iſſued thereon by ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, it ſhall and may be lawful for ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators, to obtain judgment by motion againſt ſuch principal obligor or obligors, recognizor or recognizors, his, her, or their heirs, executors, or adminſtrators, in any court where ſuch execution may have been awarded or iſſued againſt ſuch ſecurity or ſecurities, his, her, or their heirs, executors, or adminiſtrators.

How they may proceed againſt thoſe who were bound with them as ſecurities.

II. *AND be it further enacted*, That where the ſaid principal obligor or obligors, recognizor or recognizors, have or hereafter ſhall become inſolvent, and there have been, or ſhall be two or more ſecurities jointly bound with the ſaid principal obligor or obligors, recognizor or recognizors, in any ſuch bond, obligation, or recognizance, and execution ſhall be awarded or iſſued thereon againſt one or more of ſuch ſecurities, and his or their legal repreſentatives, it ſhall and may be lawful for the court in which ſuch execution was awarded or iſſued, upon motion of the party or parties, his or their legal repreſentatives, againſt whom execution hath been awarded or iſſued as aforeſaid, to award or iſſue execution againſt all and every of the obligors and recognizors, and legal repreſentatives, for their and each of their reſpective ſhares and proportions of the ſaid debt or damages due by reaſon of the ſaid obligation or recognizance. *Provided always*, That no judgment ſhall be obtained or execution awarded or iſſued by motion as aforeſaid, unleſs the party or parties againſt whom the ſame is prayed, ſhall have ten days previous notice in writing thereof.

Executions on ſuch judgments, how to be enforced.

III. ALL judgments entered, and executions awarded and iſſued by virtue of this act, ſhall be enforced under the like regulations with judgments under the act, intituled, "*An act to empower ſecurities to recover damages in a ſummary way.*"

Commencement of this act.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CLXXVI.

*An Act to continue and amend the Act, intituled, "An Act for further continuing and amending the Act, intituled "An Act for reducing into one, the ſeveral Acts concerning Executions, and for the relief of Inſolvent Debtors."**

[Paſſed the 24th of December, 1794.]

Act of 1793 concerning executions continued until the 1ſt of January, 1796.

I. BE *it enacted by the General Aſſembly of Virginia*, That the act, intituled, "*An act for further continuing and amending the act, intituled, An act for reducing into one the ſeveral Acts concerning executions, and for relief of Inſolvent Debtors,*" paſſed in the year one thouſand ſeven hundred and ninety-three, ſhall be, and the ſame is hereby continued in force, until the firſt day of *January*, one thouſand ſeven hundred and ninety-ſix.

Juſtices of any county may adminiſter the oath to an inſolvent debtor committed to the jail of ſuch county.

II. *AND be it further enacted*, That if any perſon ſhall hereafter be taken or charged in execution in any ſuit commenced or proſecuted in any court of record within this commonwealth, it ſhall be lawful for any judge or juſtice of the ſaid court, or of the court of that county or corporation, to whoſe jail ſuch perſon ſhall be committed, by warrant under his hand and ſeal, to command the jailor or keeper of the ſaid priſon, to bring before any two juſtices of the county or corporation, to whoſe jail he may be committed, at the courthouſe of ſuch county or corporation, on a certain day to be appointed in ſuch warrant, the body or bodies of ſuch perſon or perſons ſo in priſon as aforeſaid, together with a liſt of the ſeveral executions, with which he or ſhe ſhall ſtand charged in the ſaid jail, which warrant ſuch jailor is hereby required to obey, and reaſonable notice thereof ſhall be given to the party or parties, his or their executors, adminiſtrators, or agents, at whoſe ſuit ſuch perſon or perſons ſhall be in execution; and the ſaid juſtices ſhall have full power to adminiſter the oath heretofore required by law to ſuch priſoner or priſoners, and to releaſe him or them in the manner and under the regulations and proviſions preſcribed by the ſaid recited act.

* *See ch. 1ci. and acts of 1793, ch. 2.*

Penalty on a sheriff failing to deliver a forthcoming or replevy bond to the plaintiff on demand, or to return it within 60 days to the clerk's office.

III. *And be it further enacted*, That if any sheriff or other officer shall fail to deliver to the creditor, his agent or attorney, or other legal representative, on demand, any bond taken for the forthcoming of property,† or any twelve months bond taken under the above recited act, or return the same to the office from whence the execution issued, within sixty days from the return day of the execution, such sheriff or other officer, his executors or administrators, shall be liable to the same fine and penalty for every month of such failure, to be recovered in the same manner by the party injured, as is directed by law against a sheriff failing to return an execution.

Mode of proceeding against a sheriff failing to take a bond for the excess, on a sale on 18 months credit.

IV. ON a sale under execution upon twelve months credit, where the amount of such sale shall exceed the principal, interest and costs, if the sheriff or other officer shall fail to take a twelve month's bond for such excess as directed by the twenty-fixth section of the above recited act, such sheriff or other officer so failing, his executors or administrators, shall be liable to the debtor or his legal representatives for the full amount of such excess, to be recovered in the same manner as is directed by law against a sheriff failing to pay money received on an execution.

Obligees and assignees remedy on replevy bonds.

V. THE obligee or obligees, in a twelve month's replevy bond, shall and may have the like remedy thereon, by *fieri facias*, against the executors or administrators of a deceased obligor or obligors, as such obligee or obligees may now have against the obligor or obligors themselves; and that every assignee or assignees, and the executors or administrators of every assignee of such bond, shall be entitled to the like remedy thereon, as by law is given to the executors or administrators of the first assignee thereof.

Plaintiff may sue out new execution when a replevy or forthcoming bond is quashed.

VI. IF a replevy or forthcoming bond be at any time quashed as faulty, the obligee or obligees in such bond, besides his or their remedy against the sheriff, may moreover have execution on his or their judgment, in the same manner as if such replevy or forthcoming bond had never been taken.

Writs of elegit and capias ad satisfaciendum may be issued on replevy bonds, &c.

VII. ALL persons who have or shall hereafter have any money or tobacco due on a twelve month's replevy bond, or bond taken for the excess on a sale under execution upon twelve months credit, may at their election after lodging the same in the clerk's office, with an affidavit as directed by law, prosecute as well the writs of *elegit* and *capias ad satisfaciendum* thereon, as the writ of *fieri facias* now given by law; on which writs of *elegit* and *capias ad satisfaciendum*, the same rules and regulations shall be observed, as are by law established, when issued on judgments. *Provided*, That if any person or persons taken on any such *capias ad satisfaciendum*, after twelve months replevy, shall tender to the sheriff or other officer serving the same, slaves or other personal property, to the value of the debt and costs for which such execution has issued, or may hereafter issue, the sheriff or other officer shall not take any security, either to have the goods forthcoming at the day of sale, or for the payment of the money or tobacco at a future day, but shall proceed to sell the same, or sufficient thereof to raise the money or tobacco mentioned in the said execution.

Remedy against executors and securities of a sheriff failing to return an execution, &c. in due time.

VIII. IF any sheriff or other officer shall fail to return any execution whatever or attachment for not performing a decree in chancery, to the office from whence the same issued, on or before the return day thereof, the executors or administrators of such sheriff or other officer, as well as the securities of such sheriff or other officer, and the executors or administrators of such securities, shall be liable to like fine and penalty, recoverable in the same manner as by law is directed against a sheriff himself failing to return an execution.

No execution to be returned without an indorsement thereon, how it hath been executed.

IX. NO sheriff or other officer shall return any execution or attachment for not performing a decree in chancery to the office from whence the same issued, without noting thereon how he hath executed the same, unless by the express directions in writing of the plaintiff, his agent or attorney; and if any sheriff or other officer having no such directions, shall return any such execution or attachment to the office from whence the same issued, without noting or endorsing thereon how he hath executed the same, such sheriff or other officer, and his securities, and the executors or administrators of all and every of them, shall in every such case be liable to the like fine, and recoverable in the same manner as is directed by law against a sheriff failing to return an execution.

Allowance to sheriffs for support of slaves &

X. WHEN any sheriff or other officer shall provide sustenance for the support of slaves, horses, or other live stock, by virtue of the twentieth section of

† *Case of forthcoming bonds altered from law of* 1793, *ch.* 151.

live ſtock taken in execution.

the above recited act, the ſaid ſheriff or other officer in lieu of the mode thereby provided for obtaining compenſation therefor, ſhall be allowed *per* day for each ſlave fifteen cents; for each horſe or mule twelve cents; and for each head of horned cattle five cents; which allowance the ſaid ſheriff or other officer ſhall charge to the plaintiff, to be collected in ſame manner as commiſſions ariſing on executions, and ſhall be paid by the defendant to the plaintiff, to be taxed in the bill of coſts by the ſaid ſheriff or other officer.

Sheriffs to include their commiſſions in forthcoming and replevy bonds.

XI. *AND be it further enacted*, That every ſheriff or coroner (as the caſe may be) ſhall be allowed for taking every bond to the creditor ſixty-two cents, and no more; and that every ſheriff or coroner may include his commiſſions in forthcoming and replevy bonds taken on any writ of execution; but he ſhall not demand or receive ſuch commiſſions on forthcoming bonds, unleſs the ſame ſhall be forfeited.

Fines and penalties on executors of ſheriffs, to affect only the aſſets in their hands.

XII. *PROVIDED always*, That where any fine or penalty is inflicted on the executors or adminiſtrators of any ſheriff by this or the above recited act, the ſame ſhall be conſidered to affect only the aſſets in their hands as executors or adminiſtrators.

Part of the 38th ſect. of the act of 1793, repealed.

XIII. SO much of the thirty-eighth ſection of the ſaid recited act as is contrary hereto, ſhall be, and the ſame is hereby repealed.

Commencement & duration of this act.

XIV. THIS act ſhall commence and be in force, from and after the thirty-firſt day of *December*, one thouſand ſeven hundred and ninety-four, until the firſt day of *January*, one thouſand ſeven hundred and ninety-ſix.

CHAP. CLXXVII.

*An Act to amend the Act for regulating Pilots, and aſcertaining their Fees.**

[Paſſed the 24th of December, 1794.]

Pilots carried to ſea, to receive the ſame wages as the mate.

I. BE *it enacted by the General Aſſembly*, That every maſter of a veſſel, carrying a Pilot to ſea, ſhall pay to ſuch pilot the ſame wages as the mate of ſuch veſſel receives.

Pilots hereafter obtaining branches, to give bond and ſecurity.

II. EVERY pilot hereafter applying for a branch, ſhall, previous to obtaining the ſame, enter into bond, with ſuch ſecurity as the commiſſioners may approve, in the ſum of eight hundred dollars.

Pilots reſiding out of the ſtate, not to act in any boat belonging to this ſtate.

III. NO pilot reſiding in another ſtate ſhall be allowed to act as a pilot in any boat belonging to this ſtate; and if any ſuch perſon ſhall preſume to act, he ſhall be liable to the ſame penalty for each offence as is impoſed by law on ſuch as violate the terms of their branch and reſpective claſs, to be recovered in like manner.

Allowance to pilots for each day they attend a veſſel at the maſter's requeſt.

IV. EVERY pilot being requeſted by the owner or maſter of a veſſel, and attending the ſame with his boat, ſhall be allowed and paid the ſum of five dollars for each day he ſhall attend.

Rates of pilotage for ſhips of war.

V. EVERY pilot taking charge of any ſhips of war, ſhall receive the following prices in lieu of the pilotage heretofore allowed, that is to ſay: For all ſhips of war above fifty guns, from *Cape Henry* to *Hampton Road*, ſixteen dollars; for all ſhips under fifty and above twenty guns, twelve dollars; from *Cape Henry* to *York* town for all ſhips above fifty guns, twenty dollars; for all ſhips under fifty guns and above twenty guns, fifteen dollars; from *Cape Henry* to any river on *Mockjack* bay, twenty dollars; from the *Cape* to *Smith's* point on *South Patowmac*, forty dollars, and the ſame back again.

One fourth added to the pilotage of certain veſſels.

VI. EVERY pilot ſhall be allowed and paid for the pilotage of any veſſel above ſeventy tons, and coming from ſea, one fourth in addition to the ſums allowed by law.

Repealing clauſe.

VII. SO much of any act or acts as comes within the purview of this act, is hereby repealed.

Exception as to veſſels going from the Capes up Patowmac.

VIII. *PROVIDED*, That nothing herein expreſſed ſhall affect the rate of pilotage as eſtabliſhed by law from the *Capes* to the different places up the *Patowmac* river, which ſhall remain as eſtimated in the law paſſed in one thouſand ſeven hundred and ninety-two.

Commencement of this Act.

IX. THIS act ſhall commence and be in force, from and after the firſt day of *March* next.

* *See acts of* 1795, *ch.* 19.

CHAP. CLXXVIII.

An Act for the Support of the Marine Hospital.

[Passed the 25th of December, 1794.]

Taxes imposed on all sailors coming into the ports of this commonwealth.

I. BE *it enacted by the General Assembly*, That a tax of thirty cents shall be, and is hereby imposed on every sailor, to be paid by the captain, master or owner of the vessel on her return from a voyage at the time of making entry of such vessel.

When and how to be collected.

II. EVERY captain, master or owner of a vessel on his return from a voyage, shall at the time of entering his vessel, give in upon oath to the collector a list of the names of sailors in his vessel, and moreover pay down the tax hereby imposed, to be by him deducted out of their wages. If the captain, master or owner shall fail to give in such list, he shall forfeit and pay the sum of forty dollars, to be recovered by the collector with costs on motion in any court of record in this commonwealth, provided the party has ten days previous notice of such motion. If the captain, master or owner of any vessel shall fail to pay down the amount of the tax as aforesaid, it shall be lawful for the collector, and he is hereby required to recover the same by warrant, before a magistrate, where the sum doth not exceed five dollars, and where it exceeds that sum, by motion as before directed in case of failure to give in a list.

Collectors to give bond and security for collecting and accounting for the said tax.

III. EVERY collector in this commonwealth on or before the first day of *March* next, shall enter into bond with sufficient security in the court of the county where he resides, in the penalty of four thousand dollars, payable to the Governor and his successors, with condition for the due and faithful accounting for and paying all such sums of money as shall or may come to his hands by virtue of this act. Every collector shall render such account quarterly to the treasurer of the commonwealth, and pay to him the money he shall have received by virtue of this act, deducting a commission of two and an half for his trouble in collecting and paying the same, and on failure thereof, such collector shall forfeit and pay the sum of eight hundred dollars, to be recovered by the treasurer in any court of record in this commonwealth by motion, provided the collector has ten days previous notice of such motion.

To render accounts thereof quarterly to the treasurer. Their commissions.

Money received by virtue of this act to be applied to the support of the marine hospital in Washington, in Norfolk county. Ports in which the tax is payable.

IV. ALL monies received by the treasurer in virtue of this act shall be applied under the direction of the Executive towards finishing and supporting the Marine hospital in the town of *Washington*, in the county of *Norfolk*: *Provided*, that no seaman or mariner whatever, who shall arrive in any port of this commonwealth, (other than into the ports on *James*, *York*, *Rappahannock* and *Elizabeth* rivers) shall be considered as coming within the purview of this act. Any thing herein contained to the contrary notwithstanding.

CHAP. CLXXIX.

An Act to amend the Act for regulating Conveyances.

[Passed the 25th of December, 1794.]

Preamble.

I. WHEREAS it is enacted in the fifth section of the act, intituled, "*An act for regulating conveyances*," passed the thirteenth day of *December*, in the year of our Lord, one thousand seven hundred and ninety-two, in the following words, to wit: "If the party who shall sign and seal any such "writing reside not in *Virginia*, or in the district or county where the lands "conveyed lie, the acknowledgment of such party, or the proof by the number "of witnesses requisite, of the sealing and delivering of the writing, before any "court of law, or the mayor or other chief magistrate of any city, town, or cor"poration of the county in which the party shall dwell, certified by such court, "or mayor, or chief magistrate, in the manner such acts are usually authenti"cated by them, and offered to the proper court, to be recorded within eigh"teen months after sealing and delivering, where the party resides out of this "commonwealth, and within eight months after the sealing and delivery, where "the party resides within this commonwealth, shall be as effectual as if it had "been in the last mentioned court:" And whereas the operation of the said act is found not to be co-extensive with the intent thereof, by reason that some of the subdivisions of the United States, as well as of other countries, are not denominated by the term of counties:

How deeds, &c. made by perſons reſiding out of the ſtate, may be proved and recorded.

II. *BE it therefore enacted*, That if any party who ſhall ſign and ſeal any ſuch writing as is contemplated in the ſection aforeſaid, reſide not in *Virginia*, the acknowledgment by ſuch party, or the proof by the number of witneſſes requiſite of the ſealing and delivering of the writing before any court of law, or the mayor or other chief magiſtrate of any city, town, or corporation, of and in the country in which the party ſhall dwell, certified by ſuch court, or mayor, or chief magiſtrate, in the manner ſuch acts are uſually authenticated by them, and offered to the proper court to be recorded within two years after the ſealing and delivering, ſhall be as effectual as if it had been done in the laſt mentioned court.

Commencement of this act.

III. THIS act ſhall commence and be in force from the paſſing thereof.

CHAP. CLXXX.

An Act to amend an Act, intituled, "An Act concerning Eſcheators." ‡

[Paſſed the 26th of December, 1794.]

Preamble.

I. WHEREAS a contrariety of opinion hath prevailed reſpecting the conſtruction of an act of the General Aſſembly of this commonwealth, paſſed *November* thirtieth, one thouſand ſeven hundred and ninety-two, intituled, "*An act concerning eſcheators*;" and it is proper that the ſaid act ſhould be ſo explained and amended as to prevent any doubts in the expoſition thereof in future:

How many jurors ſhall be impannelled on each inqueſt. Where they ſhall meet. Inquiſitions when taken, how to be diſpoſed of.

II. *BE it enacted by the General Aſſembly*, That each and every inqueſt hereafter to be taken under the ſaid in part recited act, ſhall conſiſt of ſixteen freeholders, who ſhall be returned and impannelled by the ſheriff of the county, to meet at the courthouſe of the ſaid county where the inqueſt is taken, who ſhall ſuffer every perſon to give evidence openly in the preſence of the ſaid jurors; and the ſaid inquiſition ſo taken, ſhall be by indentures to be made between the eſcheator and any twelve or more of the inqueſt, whereof the counter part ſhall remain in the poſſeſſion of the firſt perſon that ſhall be ſworn in the ſaid jury, and by him ſhall be returned to the court of the ſame county, there to be recorded, and the other part ſealed by the jurors agreeing in their verdict, ſhall by the eſcheator be ſent into the court of the diſtrict in which the land lieth, within one month after the inqueſt taken, and the ſame proceedings ſhall then in every caſe and manner be purſued as is directed in the ſaid act.

How and when eſcheated lands ſhall be ſold.

III. AND where the eſcheator proceeds to a ſale of lands under the proviſions in the ſaid act, the ſame ſhall be ſold at public vendue, at the courthouſe of the county wherein the ſaid land lieth, either by the whole tract, or in ſuch manner as in his opinion will increaſe the value thereof.

How far this act is to affect the act of 1792 concerning eſcheators.

IV. THIS act ſhall not be conſtrued to repeal any part or parts of the aforeſaid act, other than ſuch as are rendered nugatory by the expreſs directions of this act.

Eſcheators' fees, and commiſſions.

V. AND whereas no allowance hath been provided by law for the ſervices required to be performed by the ſeveral eſcheators of this commonwealth, and ſome allowance being adjudged reaſonable, *Be it therefore enacted*, that for each inqueſt taken by any eſcheator on behalf of this commonwealth, ſuch eſcheator ſhall be allowed the ſum of five dollars, to be paid out of the fund charged with the payment of the civil liſt; and that he ſhall alſo be allowed a commiſſion of five *per cent.* on all ſums by him received by virtue of his office, and which ſhall be paid into the public treaſury by him.

Attorney for the commonwealth, to attend at the taking of inqueſts. Allowance to him.

VI. AND it is hereby declared to be the duty of the attorney proſecuting for the commonwealth, in any and every county therein, to proſecute ſuch inqueſt; and ſuch attorney for his trouble and expenſe, ſhall be allowed the ſum of ve ſidollars for every inqueſt and office found he ſhall attend, to be paid by the auditor of public accounts out of the aggregate fund.

Commencement of this act.

VII. THIS act ſhall commence and be in force, from and after the paſſing thereof.

‡ *See acts of* 1797, *ch.* 6, 13.

CHAP. CLXXXI.

An Act authorising the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors in certain Cases *

[Paſſed the 26th of December, 1794.]

Diſcretionary power veſted in the Executive to remit damages, and fines incurred by public collectors.

I. BE *it enacted by the General Aſſembly*, That when any application ſhall be made to the Executive by any ſheriff or other collector of the public revenue, or their ſecurities, or the repreſentatives of either, for the remiſſion of damages or fines incurred by them in favour of the commonwealth, the Executive ſhall be authoriſed to take into conſideration the particular circumſtances of each caſe, and may remit the whole or part of ſuch damages or fines, as to them ſhall appear juſt and reaſonable. *Provided*, That before any damages, or any part thereof ſhall be remitted, that the applicant ſhall produce a certificate from the auditor of public accounts, that the principal, intereſt and coſts have been paid into the public treaſury.

Proviſo.

Commencement of this act.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

* *By act of Dec. ſeſs. ch.* 51, *the Executive prohibited from remitting any fine, unleſs by law they be empowered to do ſo.*

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Tuesday*, the 10th day of *November*, in the Year of our Lord, 1795.

CHAP. CLXXXII.

An Act to amend and reduce into one act, the several acts of Assembly for regulating the Militia of this Commonwealth.

[Passed the 24th of December, 1795.]

Preamble.

WHEREAS the Congress of the United States, did, at their session of one thousand seven hundred and ninety-two, pass an act, intituled, "*An act more effectually to provide for the national defence, by establishing an uniform Militia throughout the United States*," and it is expedient for this Legislature to carry the same into effect, so far as respects this state:

Counties composing brigades and divisions of militia.

I. *BE it therefore enacted*, That the counties of Accomack, Northampton, Princess Anne, Norfolk, and the Borough of Norfolk, shall compose one brigade; the counties of Nansemond, Isle of Wight, Southampton, Surry, Sussex and Prince George, one brigade; the counties of Elizabeth City, Warwick, York, James City, Charles City, New Kent, Hanover, Henrico, and the Cities of Richmond and Williamsburg, one brigade; the counties of Gloucester, Mathews, Middlesex, Essex, King William, King & Queen, Lancaster, Northumberland, Richmond and Westmoreland, one brigade; and the said brigades shall compose one division: That the counties of Loudoun and Fairfax, shall compose one brigade; the counties of Fauquier, Prince William, Stafford and King George, one brigade; the counties of Culpeper, Madison, Orange, Spotsylvania and Caroline, one brigade; the counties of Louisa, Goochland, Fluvanna, Albemarle and Amherst, one brigade; and the said brigades shall compose one other division: The counties of Frederick and Berkeley, shall compose one brigade; the counties of Rockingham, Augusta, and Shenandoah, one brigade; the counties of Wythe, Washington, Russel, Lee, Grayson, and Montgomery, one brigade; the counties of Rockbridge, Botetourt, Greenbrier, Bath, and Kanawha, one brigade; the counties of Hampshire, Hardy, Pendleton, Randolph, Harrison, Monongalia, and Ohio, one brigade; and the said brigades shall compose one other division: The counties of Henry, Patrick, Franklin, Campbell, and Bedford, shall compose one brigade; the counties of Pittsylvania, Halifax, Charlotte, and Prince Edward, one brigade; the counties of Dinwiddie, Greensville, Brunswick, Lunenburg, and Mecklenburg, one brigade; the counties of Chesterfield, Amelia, Nottoway, Powhatan, Cumberland, and Buckingham, one brigade; and the said brigades shall compose one other division.

What counties shall form one or more regiments or battalions, and where containing a battalion only, what counties shall be united in order to form a regiment.

II. *AND be it further enacted*, That the counties of Loudoun, Berkeley, Culpeper, Shenandoah, Fauquier, Accomack, Amherst, Norfolk, Halifax, Pittsylvania, Dinwiddie, Mecklenburg, Bedford, Albemarle, Brunswick, Montgomery, Wythe, Prince William, Hanover, and Frederick, shall compose two regiments, and four battalions each; that the counties of Middlesex and Essex, shall each compose one battalion, which two battalions shall compose one regiment; that the counties of Westmoreland and Richmond shall compose two battalions, which two battalions shall compose one regiment; that the counties of Harrison and Randolph, shall each compose one battalion, which two battalions shall constitute one regiment; that the counties of Charles City and New Kent, shall compose one battalion each, which two battalions shall constitute one regiment; that the counties of Elizabeth City and Warwick, shall form one battalion; and the counties of York, James City, and the City of Williamsburg, shall form one other battalion, which two battalions shall constitute one regiment; and each of the other counties in this commonwealth, and also the City of Richmond, and Borough of Norfolk, shall compose each two battalions, which two battalions shall constitute one regiment; and every battalion as aforesaid, shall, if convenient, be formed into five companies, each company to consist of not less than fifty nor more than one hundred rank and file.

General officers how appointed & commissioned.

III. *AND be it further enacted*, That there shall be an adjutant general for the militia of the state, a major general to each division, and a brigadier general

to each brigade, to be appointed by joint ballot of both houſes of the General Aſſembly, who ſhall reſide within the limits of their reſpective commands. Each major general ſhall appoint his own aids-de-camp, and each brigadier his own brigade inſpector. And the governor, with advice of council, ſhall commiſſion the ſeveral major generals, brigadier generals, and the adjutant general who may be hereafter appointed purſuant to this act. And all vacancies hereafter accruing in any of the ſaid offices, ſhall be ſupplied by appointments in like manner to be made.

Certain field officers of artillery and cavalry, to be appointed and commiſſioned.

IV. *AND be it further enacted*, That the Governor, with the advice of Council, ſhall be, and he is hereby authoriſed and required to appoint and commiſſion to each diviſion, one lieutenant colonel commandant and two majors to command the ſeveral companies of artillery and cavalry (as the caſe may be) annexed to each diviſion, and to arrange ſuch companies of artillery into regiments and battalions in ſuch manner as to them may ſeem moſt convenient, to be denominated the ——— regiment and ——— battalion of the ——— regiment of artillery or cavalry (as the caſe may be) and all returns of the ſtrength and ſtate of the ſeveral companies of artillery and cavalry, ſhall be made by the commanding officers of the ſeveral regiments, battalions, and companies, under the like rules, regulations, and penalties, as are by law directed with reſpect to the reſt of the militia.

Courts of counties and corporations to recommend field officers and officers of inferior rank: How to be commiſſioned, and how vacancies are to be ſupplied.

V. *AND be it further enacted*, That where it has not been already done, the courts of the ſeveral counties and corporations, ſhall from the field and other officers who hold commiſſions in the militia, proceed to recommend to the Executive the officers neceſſary to complete the regiments, battalions, and companies, purſuant to this act, by grades and ſeniority; and the perſons ſo recommended, ſhall be commiſſioned by the Governor, agreeably to the conſtitution of this ſtate: And all vacancies thereafter happening in the ſaid offices of the militia ſhall be ſupplied by appointment of the Governor, with advice of the Council, or recommendation from the court of the reſpective county or corporation where ſuch vacancy happens; any thing in any act to the contrary notwithſtanding.

Officers not recommended by courts to become ſupernumeraries.

VI. ALL perſons who hold commiſſions under the late militia laws of this ſtate, and who have not been recommended by their reſpective courts, ſhall be conſidered as ſupernumerary officers, but may be recommended to ſupply vacancies hereafter happening in the officers of the militia, and in caſe any ſupernumerary officer ſo recommended, ſhall on ſuch recommendation refuſe to ſerve, ſuch officer ſhall no longer avail himſelf of his former commiſſion, ſo as to claim an exemption from militia duty.

Oath of officers.

VII. *AND be it further enacted*, That each and every officer appointed, or who may hereafter be appointed and commiſſioned in manner aforeſaid, ſhall previous to his entering on the execution of his office, take the following oath (to be adminiſtered by a juſtice of the peace, or the court of the county or corporation in which ſuch officer reſides) to wit: "*I* ——— ——— *do ſwear* "*that I will be faithful and true to the commonwealth of Virginia, of which I* "*profeſs myſelf to be a citizen, and that I will faithfully and juſtly execute the* "*office of* ——— ——— *in the militia thereof, according to the beſt of my* "*ſkill and judgment.* So help me GOD." If the ſaid oath be adminiſtered by a juſtice of the peace, it ſhall be his duty to certify the ſame to the court of his reſpective county or corporation, there to be entered of record by the clerk.

Executive to number diviſions, brigades and regiments, and cauſe the ſame to be regiſtered in the office of the adjutant general.

VIII. IT ſhall be the duty of the Executive to number by ballot the ſeveral diviſions, brigades, and regiments, and cauſe the ſame to be regiſtered in the office of the Adjutant-General; and every commiſſion hereafter iſſued by the Governor, as aforeſaid, ſhall expreſs the number of the diviſion, brigade, and regiment reſpectively, to which the perſon obtaining the ſame, ſhall belong.

Counties to be laid off into diſtricts for forming battalions and companies, and how.

IX. WHERE commanding officers of regiments have failed to lay off their regimental, battalion and company diſtricts, or where any alteration in diſtricts actually laid off, may hereafter be found neceſſary, commanding officers of regiments ſhall aſſemble the commanding officers of battalions and companies at ſome fit and convenient place, and may proceed to lay off or alter any ſuch regimental, battalion or company diſtrict, which diſtricts ſhall in all caſes be deſignated by certain lines and bounds, and recorded by the clerks of the Courts of Enquiry, reſpectively.

Captains to cauſe their reſpective companies to be claſſed into diviſions for the regular performance of duty.

X. *AND be it further enacted*, That where it has not been already done, it ſhall be the duty of commanding officers of companies, to proceed forthwith to divide their companies into diviſions by ballot from one to ten, for the purpoſe of a regular rotine of duty when called into actual ſervice; and to return

a roſter of each diviſion, and its number, in rotation, within fifteen days thereafter, to the commanding officer of his battalion, who ſhall forthwith tranſmit the ſame to the commanding officer of the regiment, who ſhall direct the ſame to be recorded by the clerk of the Court of Enquiry. The ſame regulations, ſhall be obſerved by every commanding officer of a company, battalion, and regiment, on the ſubſequent inrollment of any perſon therein, unleſs ſuch perſon ſhall produce a certificate of his having been before drawn for the above purpoſe, in which caſe he ſhall be inrolled accordingly. And every militia man removing out of the bounds of one company into another, ſhall apply to the commanding officer of the company to which he did belong, who ſhall give him a diſcharge certifying the claſs, wherein he was arranged, and whether he had performed his tour of duty or not, and alſo the time and date of ſaid ſervice; which certificate the ſaid militia man, ſhall produce to the Captain or commanding officer of the company into whoſe bounds he ſhall ſo have removed, within ten days after his ſettlement; and ſuch officer is hereby required to inroll him in the numerical claſs ſpecified therein; and every militia man ſo removing and failing to produce ſuch certificate, ſhall be arranged and inrolled in the claſs deſtined to perform the next tour of duty: And if any Captain or commanding officer of a company ſhall refuſe to grant ſuch a certificate upon application to him made for that purpoſe, he ſhall for ſuch refuſal, incur a penalty of thirty dollars, to be aſſeſſed and applied as other fines impoſed by this act.

Artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted into diviſions.

XI. *AND be it further enacted*, That the Governor with the advice of Council, ſhall and may cauſe the ſeveral companies of artillery, cavalry, grenadiers, light infantry, and riflemen, to be allotted by entire companies into diviſions from one to ten, for a regular rotine of duty; and the ſaid companies ſhall in future be called into actual ſervice by entire companies in ſuch manner and proportion, as the reſt of the militia, or as the nature of the ſervice may require; and all ſuch allotments ſhall be returned to the office of the adjutant-general to be recorded by him.

Perſons exempted from militia duty.

XII. *AND be it further enacted*, That the members of the council of ſtate, judges of the ſuperior courts, clerks of both houſes of the general aſſembly, clerks of the ſuperior and inferior courts, the attorney-general, the treaſurer and his clerks, the auditor of public accounts, the regiſter of the land-office, and their clerks, all inſpectors of tobacco, all profeſſors and tutors, and ſtudents of the college of William & Mary, and all other public ſeminaries of learning, all miniſters of the goſpel licenſed to preach according to the rules of their ſect, who ſhall have previouſly taken before the court of their county the oath of fidelity to the commonwealth, keepers of the public, diſtrict, and county jails, and of the public hoſpital, millers actually and neceſſarily employed in the management of water griſt mills legally eſtabliſhed, all ferrymen actually and neceſſarily employed as ſuch, ſhall, and they are hereby exempted from the performance of all and any part of the duties required by this act: And all quakers and menoniſts religiouſly ſcrupulous of bearing arms, and having a certificate from their reſpective ſocieties of their being members of ſuch ſociety, ſhall be, and they are hereby exempted from all ſervice in the militia: *Provided*, They ſhall furniſh a ſubſtitute for actual ſervice, to be approved of by the commanding officer of the regiment within whoſe bounds he ſhall reſide, and all artificers employed, or who may hereafter be employed at the arſenal at the Point of Fork, during their continuance in that employment. *Provided*, That regimental, battalion, or company muſters ſhall not be conſidered as actual ſervice within the meaning of this law.

What perſons ſhall be inrolled.

XIII. *AND be it further enacted*, That the commanding officers of companies ſhall inroll every able bodied white male citizen between the ages of eighteen and forty-five (except ſuch as are exempted by this act,) reſident within his diſtrict; and that in all caſes of doubt reſpecting the age of any perſon inrolled or intended to be inrolled in any company of militia, the party queſtioned ſhall prove his age to the ſatisfaction of the officers, or a majority of the officers of the company within whoſe bounds he may reſide.

Officers neceſſary for companies of grenadiers, light infantry, riflemen, and artillery, to be appointed by the Executive.

XIV. *AND be it further enacted*; That the Governor, with the advice of Council, or on the recommendation of the county or corporation courts, ſhall iſſue commiſſions for at leaſt one captain, one lieutenant, and one enſign to each battalion, who ſhall proceed by voluntary enliſtment within their battalion to inroll a ſufficient number of men to complete their company or companies, and be diſtinguiſhed by the denomination of grenadiers, light-infantry, or riflemen,

at the discretion of the commanding officer of the regiment; and every person belonging to said light companies shall wear while on duty, such caps and uniforms as the Executive shall direct, to be purchased by the commanding officers of the regiment out of the money arising on delinquents, and the said companies shall perform the same rotine of duty, and be subject to the same rules, regulations, and orders as the rest of the militia. And the Governor, with the advice of Council, is hereby empowered to appoint and commission at their own discretion the necessary officers for one or more companies of artillery in each brigade, who are hereby authorised and empowered to enlist by voluntary enlistments, and in such proportion to each officer respectively so appointed, as the Executive shall direct, a company or companies, to be denominated the ———— company of artillery; in like manner commissions may issue for the necessary officers for one or more troops of cavalry in each brigade, who shall also by voluntary enlistments, and in the same proportion to their respective ranks, enlist a company or companies, to be denominated the ———— company of cavalry. And all and every officer or officers so appointed, who shall fail to enlist or complete his quota, within three months after receiving his commission, shall at the discretion of the Executive, (unless good cause is shewn to the contrary) be discontinued.

Musters of artillery and cavalry, how often; and in what cases officers thereof may sit in a court of enquiry.

XV. *AND be it further enacted*, That there shall be a muster of each troop of cavalry and company of artillery once in every two months, except the months of January, February, March, and December, in every year: And it shall be the duty of the captain or commanding officer of every such troop or company, and they are hereby required at each and every muster, to call his roll, examine every person belonging thereto, and note down all delinquencies occurring therein, and make return thereof upon oath to the commanding officer of the regiment within whose bounds such delinquent may reside, to be reported and proceeded against in like manner as other delinquents. And it shall be lawful for any commissioned officer of cavalry or artillery to sit in any court of enquiry and assessment of fines, to which any person in their respective companies is reported a delinquent: *Provided*, That it shall not be lawful for more than one such officer of cavalry and artillery to sit in such court at the same time.

Musters of the militia generally, when and how often, and how to be notified.

XVI. THERE shall be a muster of each company of militia once in every two months, except the months of December, January, February, and March, in every year, to be appointed by the commanding officer thereof at such place as he shall think most convenient within his district; and there shall be a muster of each battalion in the month of May, in every year, to be appointed by the commanding officer of the regiment to which such battalions respectively belong, at such place as he deems most convenient within the battalion district; and there shall be a muster of each regiment in the month of October, in every year, to be appointed by the commanding officer of the brigade to which such regiments respectively belong, at such place as he shall think most convenient within the regimental district; which said company, battalion, and regimental musters, shall continue one day, and no longer; the time and place of such regimental musters shall be notified to the commanding officers of regiments forty days previous thereto; the commanding officers of regiments shall give notice to the commanding officers of battalions at least thirty days; the commanding officers of battalions to the commanding officers of companies at least twenty days; and the commanding officers of companies to their serjeants at least ten days; and the serjeants to each person in his company at least three days before such muster: The notices to be given by the commanding officers of brigades, regiments, and battalions, shall be in writing, delivered to each person to be notified, or left at his usual place of abode: And every serjeant failing to give notice agreeably to the commanding officer of his company, to each person therein, shall forfeit and pay for each and every offence three dollars; to be assessed and recovered as other fines imposed by this act: *Nevertheless*, All notices publicly given by the commanding officers of companies at their respective musters, of any subsequent muster, shall be held and deemed as legal notice within the meaning of this act, as to all persons present at such musters, any thing herein to the contrary notwithstanding. Every officer and soldier shall appear at his respective muster field on the day appointed by eleven o'clock in the forenoon. At every muster the commanding officer of the company shall call his roll, examine every person belonging thereto, and note down all delinquencies accruing therein, and make return thereof at or before the next regi-

mental or battalion court of enquiry, to the commanding officer of his battalion, including thoſe which occurred on the day of his laſt regimental or battalion muſter; and the commanding officers of regiments and battalions ſhall at their reſpective regimental or battalion muſter (as the caſe may be) take notice of all delinquent officers; and ſhall lay the ſame together with the returns of delinquencies from the commanding officers of companies before the court of enquiry appointed under this act, to take cognizance of, and determine on them; and to each of the ſaid returns ſhall be annexed the following certificate, to wit: "*I* ———— *do certify that the returns hereto annexed, contain all the delinquencies which have occurred ſince my laſt return, having duly examined the ſame.*"

Regular returns of militia to be made.

XVII. EVERY commanding officer of a company ſhall within ten days after every regimental or battalion muſter, make up and report to the commanding officer of his battalion, a return of his company in ſuch manner and form as ſhall be furniſhed by the proper officer from time to time. It ſhall be the duty of the commanding officers of battalions to make like returns to the commanding officers of regiments within ten days thereafter, who ſhall cauſe the adjutant of his regiment to make regimental returns to their reſpective brigade inſpectors, within twenty days thereafter.

Commanding officers of brigades may prevent the militia of the frontier counties from muſtering in regiments and battalions in certain caſes.

XVIII. AND whereas it may be improper that the militia in the frontier counties ſhould be drawn from their dwellings in times of danger, merely for the purpoſe of training: *Be it enacted*, that the commanding officers of brigades on the frontiers of this ſtate, may diſpenſe with the execution of this law, ſo far as relates to training the militia in regiments and battalions within their commands, as they ſhall judge expedient; and they ſhall inſtruct their brigade inſpectors accordingly.

XIX. EACH captain or commanding officer of a company ſhall appoint to his company four ſerjeants, four corporals, a drummer and fifer, to be approved of by the commanding officer of his battalion.

In caſe of the death of any officer, &c. officer next in rank to ſucceed to the command.

XX. IN all caſes of death, abſence, or reſignation of any major-general, brigadier-general, lieutenant colonel commandant, major, captain, or lieutenant, the next officer in rank, in his reſpective commands, ſhall be conſidered as the commanding officer during ſuch vacancy, and liable to perform the duties required by this act, and for neglect therein, ſhall incur the penalties annexed thereto.

XXI. IT ſhall be the duty of every commanding officer of a regiment, battalion, or company, at their reſpective muſters, to cauſe the militia to be trained and exerciſed agreeably to the mode of diſcipline preſcribed by Congreſs, under pain of being arreſted and tried for breach of their duty; and for this purpoſe the ſaid officers are hereby authoriſed to order the moſt expert and fit officer in their reſpective commands, to perform that duty.

Officers to meet for the purpoſe of being trained by the brigade inſpector once annually.

XXII. AND in order that a knowledge of the rules of diſcipline may be more readily obtained: *Be it enacted*, that the commiſſioned officers of the ſeveral regiments ſhall meet once in every year within their reſpective regimental diſtricts, for the purpoſe of being trained and inſtructed by the brigade inſpectors; the days and places of meeting to be fixed on by the commanding officer of the brigade to which the regiments belong. The officers thus aſſembled, ſhall each continue four days and no longer every time they are ſo called out. The eldeſt officer preſent ſhall call the roll on each day, and report the delinquencies to the ſucceeding regimental court of enquiry; and every officer failing to attend ſuch meeting, on being ſummoned, not having a reaſonable excuſe, to be adjudged of by the court of enquiry, ſhall forfeit and pay for each day which he ſhall fail ſo to attend, five dollars, to be appropriated as the other fines are by this act: *Provided always*, That where there is more than one regiment in a county, all the commiſſioned officers of the reſpective regiments in ſuch county ſhall meet together at ſuch place as may be appointed by the commanding officer of the brigade, for the purpoſe of being trained and inſtructed purſuant to this act.

Rules of diſcipline as eſtabliſhed by Congreſs, to be printed and diſtributed among the ſeveral commiſſioned officers of the militia.

XXIII. AND to the end that a general knowledge of the rules of diſcipline eſtabliſhed by Congreſs in their reſolution of the twenty-ninth day of March, one thouſand ſeven hundred and ſeventy-nine, may be diffuſed, the executive is hereby authoriſed and required to procure and have a ſufficient number of copies of the ſaid rules printed and bound in boards, to afford to every commiſſioned officer of the militia one copy, and cauſe them to be delivered to the commanding officers of brigades, to be by them duly diſtributed without de-

lay; and upon the death, resignation or removal of any officer, the book delivered him shall revert to the public, and be returned to the commanding officer of the regiment, to be by him delivered to the officer filling the vacancy occasioned by such death, resignation or removal. And for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officer guilty of misbehaviour when on duty to be arrested.

XXIV. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

Non-commissioned officers behaving amiss on duty, how punished.

XXV. IF any non-commissioned officer or soldier, shall behave himself disobediently or mutinously when on duty, or before any court or board directed by this act to be held, the commanding officer, court or board, may confine him for the day; and he may moreover be fined at the discretion of the court of enquiry, in any sum not exceeding ten dollars; to be appropriated as other fines imposed by this act.

Penalty on by-standers guilty of misconduct at musters, &c.

XXVI. IF any by-stander shall interrupt, molest or insult, any officer or soldier while on duty, at any muster, or shall be guilty of like conduct before any court or board, the commanding officer or such court or board, may cause him to be confined for the day.

Forfeitures and penalties imposed for neglect of any duty required by this act.

XXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant colonel commandant or commanding officer of a regiment, for failing to take an oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a battalion muster, or failing to give notice of a regimental muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding seventy dollars; for failing to send into actual service any militia legally called for, or to turn out his militia upon an invasion or insurrection of his county, three hundred dollars; by a major, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding thirty dollars; for failing to call forth from his battalion with due dispatch, any detachment of men or officers as shall be required from time to time by the commanding officer of his regiment, on any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, one hundred and fifty dollars; by a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, or to allot his company into divisions from one to ten, for a regular rotine of duty, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on such occasion to repair to the place of rendezvous, he shall forfeit and pay seventy-five dollars; by a subaltern officer, for failing to take any oath, to attend any court or muster armed as directed, for each and every such offence he shall forfeit and pay a sum not exceeding ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay fifty dollars, to be adjudged of and determined by the respective regimental courts of enquiry; by a non-commissioned officer, or soldier, for failing to repair to his rendezvous, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay a sum not exceeding eighty dollars, to be adjudged of and determined by their respective battalion courts of enquiry, and moreover shall be inrolled in the class destined to perform the next tour of duty. All officers failing as before mentioned, shall be subject to be arrested, tried, censured or cashiered at the discretion of their respective battalion courts of enquiry. Any non-commissioned officer or soldier, failing to attend at his regimental, battalion or company muster, armed and equipped as the law directs, shall for-

feit and pay seventy-five cents. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may if it appear reasonable remit the fine incurred by him: *Provided*, Every such delinquent who hath a firelock of any kind shall make it appear that he brought the same to the muster. Any private on the ground at a regimental, battalion or company muster, who shall refuse to go into the ranks when required, shall forfeit and pay four dollars.

Tribunals instituted for the trial of offences as they are to be viewed in a military light.

XXVIII. AND whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, and for enquiring into certain delinquencies and assessing fines: *Be it enacted*, That the Governor or commanding officer of the militia of this state, shall have power, for misconduct within his own knowledge, or upon complaint lodged in writing by any commissioned officer, to arrest and order a court-martial of the state for the trial of the adjutant-general, a major-general, or brigadier-general, to be composed of one major-general, not more than four brigadier-generals, and as many lieutenant-colonel commandants and majors, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final, saving an appeal to the Executive. And any major-general or brigadier-general, for misconduct within their own knowledge, or upon complaint lodged in writing by any commissioned officer, shall have power to arrest any lieutenant-colonel commandant, aid-de-camp, brigade inspector and major, or any other inferior officer; and the commanding officer of the division, shall order a court-martial, for the trial of such lieutenant colonel commandant, aid-de-camp, brigade inspector or major, to be composed of one brigadier-general, and as many lieutenant colonel commandants, majors and captains, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier such officer, which sentence shall be final; saving to the party an appeal to the Executive. And any brigadier-general, lieutenant colonel commandant, or major, for misconduct in any captain or subaltern within his own knowledge, or upon complaint lodged in writing by any commissioned officer, may arrest such captain or subaltern; and the brigadier or commanding officer of the brigade shall order a brigade court-martial for the trial of such captain or subaltern, to be composed of one or more field-officers, and a sufficient number of captains and subalterns, to make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final; saving to the party an appeal to the Executive. And in all cases of appeal, the party making the appeal, may demand of the clerk or judge advocate of the court-martial, a full copy of the proceedings had thereon, to be laid before the Executive, who shall determine agreeably to the right of the case. And for obtaining the necessary evidences for the trials aforesaid, the commanding officer of the state, division or brigade, (as the case may be) shall issue his summonses; and every person so summoned, failing to attend, shall be subject to and may be tried by a court-martial; and if an officer, may at the discretion of a court-martial, be cashiered or fined, not exceeding six months pay as by law allowed; and if a non-commissioned officer or soldier, to be reported to the court of enquiry of the regiment to which he shall belong, and be then subject to such fines and penalties as they may think proper to inflict, not exceeding six months pay.

Battalion courts of enquiry for assessment of fines incurred in such battalion.

XXIX. *AND be it further enacted*, That there shall be battalion courts of enquiry, to be appointed by the commanding officer of the battalion, for the assessment of fines incurred under this act in such battalion, and such courts of enquiry shall be held within fifteen days after each battalion and regimental muster, at or as near as shall be convenient to the place where the last battalion muster was held, and to consist of the commanding officer of the battalion, and the commanding officers of companies, or a majority of them, who shall take the following oath, to be administered by the presiding officer, and afterwards by any other officer of the said court to him, to wit: "*I* _____ "*will truly and faithfully enquire into all delinquencies which appear on the re-*"*turns to be laid before me, and will assess the fines thereon as shall seem just, with-*

Oath to be administered.

lay; and upon the death, resignation or removal of any officer, the book delivered him shall revert to the public, and be returned to the commanding officer of the regiment, to be by him delivered to the officer filling the vacancy occasioned by such death, resignation or removal. And for defraying the necessary expense thereof, the executive shall draw on the contingent fund.

Officer guilty of misbehaviour when on duty to be arrested.

XXIV. ANY officer who shall be guilty of disobedience, or other misbehaviour when on duty, or shall at any time be guilty of any conduct unbecoming the character of an officer, shall be put under arrest by his commanding officer, and tried as hereafter shall be directed.

Non-commissioned officers behaving amiss on duty, how punished.

XXV. IF any non-commissioned officer or soldier, shall behave himself disobediently or mutinously when on duty, or before any court or board directed by this act to be held, the commanding officer, court or board, may confine him for the day; and he may moreover be fined at the discretion of the court of enquiry, in any sum not exceeding ten dollars; to be appropriated as other fines imposed by this act.

Penalty on by-standers guilty of misconduct at musters, &c.

XXVI. IF any by-stander shall interrupt, molest or insult, any officer or soldier while on duty, at any muster, or shall be guilty of like conduct before any court or board, the commanding officer or such court or board, may cause him to be confined for the day.

Forfeitures and penalties imposed for neglect of any duty required by this act.

XXVII. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties shall be incurred for delinquencies, viz. By a lieutenant colonel commandant or commanding officer of a regiment, for failing to take an oath, to summon any court or board, to attend any court or board, to transmit any recommendation of an officer or officers to the governor, to deliver any commission or commissions, to appoint a battalion muster, or failing to give notice of a regimental muster, to report delinquencies, to make returns of his regiment as by this act directed, shall for each and every such offence or neglect, forfeit and pay a sum not exceeding seventy dollars; for failing to send into actual service any militia legally called for, or to turn out his militia upon an invasion or insurrection of his county, three hundred dollars; by a major, for failing to take an oath, to attend any court or board, to give notice of any regimental or battalion muster, to examine his battalion, to report delinquencies, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding thirty dollars; for failing to call forth from his battalion with due dispatch, any detachment of men or officers as shall be required from time to time by the commanding officer of his regiment, on any call from the governor, invasion of, or insurrection in his county, or requisition from any neighbouring county, one hundred and fifty dollars; by a captain, for failing to take an oath, to attend any court, to inroll his company, to appoint private musters, to give notice of a regimental or battalion muster, to attend any muster armed, to call his roll, examine his company, and report delinquencies, or to allot his company into divisions from one to ten, for a regular rotine of duty, or to make any return as directed by this act, he shall forfeit and pay for each and every offence and neglect, a sum not exceeding twenty dollars; failing to call forth such officers and men as shall from time to time be legally called from his company, upon any call from the governor, invasion of, or insurrection in the county, or requisition from an adjacent county, or failing on such occasion to repair to the place of rendezvous, he shall forfeit and pay seventy-five dollars; by a subaltern officer, for failing to take any oath, to attend any court or muster armed as directed, for each and every such offence he shall forfeit and pay a sum not exceeding ten dollars; failing to repair to the place of rendezvous, armed as required, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay fifty dollars, to be adjudged of and determined by the respective regimental courts of enquiry; by a non-commissioned officer, or soldier, for failing to repair to his rendezvous, when ordered, upon any call from the governor, invasion of, or insurrection in the county, or requisition from a neighbouring county, he shall forfeit and pay a sum not exceeding eighty dollars, to be adjudged of and determined by their respective battalion courts of enquiry, and moreover shall be inrolled in the class destined to perform the next tour of duty. All officers failing as before mentioned, shall be subject to be arrested, tried, censured or cashiered at the discretion of their respective battalion courts of enquiry. Any non-commissioned officer or soldier, failing to attend at his regimental, battalion or company muster, armed and equipped as the law directs, shall for-

feit and pay seventy-five cents. If any non-commissioned officer or private shall be returned as a delinquent in not appearing armed and accoutred as the law directs, the court martial before whom the same shall be tried, may if it appear reasonable remit the fine incurred by him: *Provided*, Every such delinquent who hath a firelock of any kind shall make it appear that he brought the same to the muster. Any private on the ground at a regimental, battalion or company muster, who shall refuse to go into the ranks when required, shall forfeit and pay four dollars.

Tribunals instituted for the trial of offences as they are to be viewed in a military light.

XXVIII. AND whereas it is necessary that certain tribunals be instituted for the trial of offences as they are to be viewed in a military light, and for enquiring into certain delinquencies and assessing fines: *Be it enacted*, That the Governor or commanding officer of the militia of this state, shall have power, for misconduct within his own knowledge, or upon complaint lodged in writing by any commissioned officer, to arrest and order a court-martial of the state for the trial of the adjutant-general, a major-general, or brigadier-general, to be composed of one major-general, not more than four brigadier-generals, and as many lieutenant-colonel commandants and majors, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final, saving an appeal to the Executive. And any major-general or brigadier-general, for misconduct within their own knowledge, or upon complaint lodged in writing by any commissioned officer, shall have power to arrest any lieutenant-colonel commandant, aid-de-camp, brigade inspector and major, or any other inferior officer; and the commanding officer of the division, shall order a court-martial, for the trial of such lieutenant colonel commandant, aid-de-camp, brigade inspector or major, to be composed of one brigadier-general, and as many lieutenant colonel commandants, majors and captains, as shall make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier such officer, which sentence shall be final; saving to the party an appeal to the Executive. And any brigadier-general, lieutenant colonel commandant, or major, for misconduct in any captain or subaltern within his own knowledge, or upon complaint lodged in writing by any commissioned officer, may arrest such captain or subaltern; and the brigadier or commanding officer of the brigade shall order a brigade court-martial for the trial of such captain or subaltern, to be composed of one or more field-officers, and a sufficient number of captains and subalterns, to make up a number not less than thirteen; and such courts-martial shall proceed to hear and determine on all offences under this act, and may censure or cashier any officer so tried, which sentence shall be final; saving to the party an appeal to the Executive. And in all cases of appeal, the party making the appeal, may demand of the clerk or judge advocate of the court-martial, a full copy of the proceedings had thereon, to be laid before the Executive, who shall determine agreeably to the right of the case. And for obtaining the necessary evidences for the trials aforesaid, the commanding officer of the state, division or brigade, (as the case may be) shall issue his summonses; and every person so summoned, failing to attend, shall be subject to and may be tried by a court-martial; and if an officer, may at the discretion of a court-martial, be cashiered or fined, not exceeding six months pay as by law allowed; and if a non-commissioned officer or soldier, to be reported to the court of enquiry of the regiment to which he shall belong, and be then subject to such fines and penalties as they may think proper to inflict, not exceeding six months pay.

Battalion courts of enquiry for assessment of fines incurred in such battalion.

XXIX. *AND be it further enacted*, That there shall be battalion courts of enquiry, to be appointed by the commanding officer of the battalion, for the assessment of fines incurred under this act in such battalion, and such courts of enquiry shall be held within fifteen days after each battalion and regimental muster, at or as near as shall be convenient to the place where the last battalion muster was held, and to consist of the commanding officer of the battalion, and the commanding officers of companies, or a majority of them, who shall take the following oath, to be administered by the presiding officer, and afterwards by any other officer of the said court to him, to wit: "*I* _____ "*will truly and faithfully enquire into all delinquencies which appear on the returns to be laid before me, and will assess the fines thereon as shall seem just, with,*

Oath to be administered.

"*out favor, partiality or affection.* So help me GOD." The commanding officer of the battalion shall then lay before the said court all delinquencies as directed by this act; whereupon they shall proceed to hear and determine: And there shall moreover be a regimental court of enquiry in each year for the assessment of fines incurred by the officers of the regiment, and such court of enquiry shall be held by appointment of the commanding officer, in not less than ten nor more than twenty days after the last battalion court of enquiry; to consist of the commanding officer of the regiment, battalions and companies, or a majority of them, who shall take an oath in manner and form as prescribed above. The commanding officer of the regiment shall then lay before the said court all delinquencies as directed by this act, whereupon they shall proceed to hear and determine. It shall be the duty of the presiding officer of each and every such court of enquiry, to return to the next regimental court of enquiry, all delinquent officers, failing to attend the preceding court, to be proceeded against according to law. The regimental court of enquiry, may, for good cause shewn, remit any fine imposed by the two preceding battalion courts.—The said court may also exempt any militia man from duty on account of bodily infirmity, and may again direct such person to be inrolled when able to do duty.

Regimental courts of enquiry for the assessment of fines incurred by the officers of the regiment.

XXX. THE respective regimental courts of enquiry, where it has not already been done, shall, at their first court, to be held under this act, appoint, by ballot, a clerk and provost martial, who shall attend the courts herein before directed to be held. Such clerk shall keep a fair record of the proceedings of such courts, as also of the roster, returned by the several captains or commanding officers of companies, for regular rotine of duty, and shall make out for the sheriff, a fair list of all the fines assessed by the regimental and battalion courts, and one other list, which shall be transmitted to the Executive, on or before the first day of May next, after such regimental court was holden in each year. And all other duties required by this act, and, together with the provost martial, shall receive such allowance, to be paid out of the fines, as the court shall think reasonable.

Clerks and provost marshals to be appointed—their duties, and how their services shall be compensated.

XXXI. ALL fines to be assessed by virtue of this act, shall be collected by the sheriff of the county, upon a list thereof, certified by the clerk of the court of enquiry, and delivered to the sheriff, on or before the first day of January, in every year; who shall give his receipt therefor, and having deducted a commission of six *per centum*, shall account for, and pay the residue into the public treasury, on or before the first day of October next thereafter, under the same penalties, and subject to the same mode of recovery, as are prescribed by law with respect to the collection of the taxes. And should any person so charged with fines, fail to make payment on or before the first day of May, in any year, the sheriff is hereby authorised to make distress and sale therefor.

All fines assessed by virtue of this act, to be collected by the sheriffs of the respective counties, with power of making distress and sale.

XXXII. WHATEVER fines shall be thus paid into the public treasury, by virtue of this act, shall be held as a fund for defraying the salaries of the officers herein after mentioned, and of equipping and furnishing the militia with every necessary apparatus for the defence and security of the state. And the treasurer shall keep a separate book of the same and the expenditures thereof.

Fines arising under this act how appropriated.

XXXIII. THE lieutenant colonel commandant shall cause to be purchased out of the money arising from the fines, a set of colours for each regiment, and also a set of colours for each battalion; he shall also procure in like manner for each company a drum and fife, or bugle horn; and on the colours and drums shall be marked the number of the regiment and the battalion, together with the name of the county to which they belong. And whereas it is represented that sundry captains of companies have already advanced money for the purchase of drums and fifes for the use of their respective companies: *Be it enacted*, That in such cases the sheriff, upon a certificate from the lieutenant colonel commandant of the regiment to which such captain shall belong, shall refund the money to the said captain, which shall have been thus advanced, for which the sheriff shall have credit in the settlement of his account with the auditor. And whereas sundry other charges and expenses are authorised herein: *Be it enacted*, That the sheriff having a draught or draughts from the lieutenant colonel commandant, shall be authorised to discharge the same, for which, as well as all insolvencies duly certified by the clerk of the court of enquiry, he shall be allowed on a settlement between the auditor and sheriff.

Commandants of regiments to provide regimental and battalion colors for his regiment; and music for the several companies therein.

XXXIV. *AND be it further enacted*, That the Governor, with the advice of Council, be authorised and empowered, on an invasion or insurrection, or probable prospect thereof, to call forth such a number of the militia, and from such

Executive may call forth militia to suppress invasions and in-

counties as they may deem proper; and for the accommodation, equipment, and ſupport of the militia, ſo at any time to be called forth, the Governor, with the advice aforeſaid, may appoint ſuch quarter-maſters, commiſſaries, and other ſtaff as to him ſhall ſeem proper, and to fix their pay and allowances; and ſhall alſo take ſuch meaſures for procuring, tranſporting and iſſuing all orders which may be neceſſary, as to him ſhall ſeem beſt. Orders for the militia to be called forth as aforeſaid, ſhall be ſent to the commanding officers of brigades, with a notification of the place or places of rendezvous, who ſhall immediately take meaſures for detaching the ſame, with the neceſſary number and ranks of officers by detail and rotation of duty.

ſurrections, and appoint the requiſite ſtaff.

XXXV. THE lieutenant colonel commandant or commanding officers of regiments from which detachments are drawn, ſhall cauſe to be procured by impreſſment or otherwiſe, for each company, a waggon, team, and driver, ſix axes and ſix camp kettles or pots of convenient ſize, all which ſhall be delivered to the commanding officer of the company, who ſhall be accountable for returning the ſame when his tour is over; and the articles aforeſaid ſhall be returned to the owners, who ſhall be allowed for the uſe of the ſame, whatever ſhall be adjudged by the court hereinafter appointed for enquiring into delinquencies: And to the end that if any article impreſſed, be loſt, the owner may be paid for the ſame, the lieutenant colonel commandant or commanding officer, ſhall cauſe all property by him impreſſed by virtue of this act, to be valued by two or more freeholders on oath, before the ſame ſhall be ſent away; and upon proof being made of any article being loſt, the valuation thereof ſhall be allowed without any allowance for the uſe; and the ſaid allowance ſhall be certified to the auditor of public accounts. The ſaid court ſhall make enquiry into the cauſe of ſuch loſs, and if it ſhall appear that the ſaid loſs was occaſioned by the miſconduct or inattention of any officer, the lieutenant colonel commandant, or commanding officer, is hereby authoriſed and required to proſecute a ſuit againſt ſuch officer for the recovery of damages, for the uſe of the commonwealth.

Lieutenant colonel commandants of regiments furniſhing detachments to procure waggon, team, & driver, and certain camp utenſils.

XXXVI. IF it ſhall appear to the Executive upon calling forth the militia as aforeſaid, that the neceſſary number and ranks of officers will not attend the detachments for officering them at the places of rendezvous, the Governor, with the advice of Council, is hereby authoriſed to appoint ſuch officers as may be neceſſary from the counties called upon, as they may think proper, to join the detachments ſo raiſed.

In caſe of the non-attendance of neceſſary officers, executive to ſupply deficiency.

XXXVII. IF a ſudden invaſion ſhall be made into any county in this commonwealth, or in caſe of an inſurrection in any county, the commanding officer of the militia of ſuch county is hereby authoriſed and required to order out the whole or ſuch part of the militia as he may think neceſſary, and in ſuch manner as he may think beſt, for repelling or ſuppreſſing ſuch inſurrection, and ſhall call on the commanding officers of regiments in the adjacent counties for ſuch aid as he may think neceſſary, who ſhall forthwith in like manner furniſh the ſame.

Commanding officer may call out the militia in certain caſes.

XXXVIII. WHENEVER any militia ſhall be called forth into actual ſervice as aforeſaid, they ſhall be governed by the articles of war, which govern the troops of the United States. And courts martial ſhall be held as therein are directed, to be compoſed of militia officers only, for the trial of any perſon in the militia; but to the caſhiering of any officer, or capital puniſhment of any perſon, the approbation of the executive ſhall be neceſſary; and when any militia ſhall be in actual ſervice of the ſtate, they ſhall be allowed the ſame pay and rations as are allowed by law to the militia of the United States.

Militia in actual ſervice to be governed by the articles of war.

XXXIX. *AND be it further enacted*, That the commanding officer of every battalion of militia, ſhall from time to time, as he ſhall deem it neceſſary, appoint an officer, or non-commiſſioned officer, (as the caſe may be) and ſo many men of the militia as to him ſhall ſeem neceſſary, once in every month, (or oftener if thereto required by ſuch officer) to patrole and viſit all negro quarters and other places, ſuſpected of entertaining unlawful aſſemblies of ſlaves, ſervants, or other diſorderly perſons, as aforeſaid, unlawfully aſſembled, or any others ſtrolling from one plantation to another, without a paſs from his or her maſter, miſtreſs, or overſeer, and take them before the next juſtice of the peace, who if he ſhall ſee cauſe, is hereby required to order every ſuch ſlave, ſervant, ſtroller, or other diſorderly perſon, as aforeſaid, to receive any number of laſhes not exceeding twenty, on his or her bare back; and in caſe one company of patrollers ſhall not be ſufficient, more companies may in like

Patroles to be appointed under a certain penalty, and by whom.

Officers of the patrole to make report, and such patrollers thereupon to be compensated.

manner be ordered for the same service. And after every patrole, the officer of every party shall once in every month at least, return a report in writing upon oath, to the court of the county in which he shall reside, and if the said court shall judge the said patrollers to have performed their duty according to law, they are thereupon empowered to levy seventy-five cents for every twelve hours each of them shall so patrole: and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure; and every serjeant failing to notify the number of privates ordered by such officer, or to attend such patrole, shall forfeit and pay for every such failure three dollars, and every patrole failing to attend such patrole and do his duty, shall forfeit and pay one dollar: Which fines shall be laid, collected, accounted for, and appropriated as is herein directed, for laying, accounting for and appropriating the several fines and penalties by this act directed.

Penalty on serjeants failing to notify or attend—and on patrollers to attend such patrole.

Adjutant general and brigade inspectors, their pay; the former to keep an office in the city of Richmond; penalty on the latter for failing to attend the regimental musters.

XL. *AND be it further enacted*, That the adjutant-general shall be allowed four hundred dollars *per* year, and that each brigade inspector shall be allowed two hundred dollars *per* year, for the duties herein required of them, to be paid by the treasurer on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made. *And be it further enacted*, That the adjutant general shall, and he is hereby required to establish and keep, either in person, or by deputy, an office in the city of Richmond, for the necessary transaction of the business annexed to that office. And every brigade inspector failing to attend the several regimental musters of the brigade, shall pay for every such failure fifty dollars.

Resignations how made and vacancies occasioned thereby supplied.

XLI. THE commanding officers of regiments are hereby empowered to receive the commission of any officer of his regiment who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Arms exempted from distress and executions, &c.

XLII. ALL arms, ammunition, and equipments of the militia shall be exempted from executions and distresses at all times, and their persons from arrests and process in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

Militia of incorporated towns governed as other militia.

XLIII. THE militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

Fines on infants and apprentices, by whom to be paid.

XLIV. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian, or master.

Lieutenant colonel commandants to appoint a regimental staff—Duty of and allowance to the adjutant.

XLV. IT shall be lawful for the lieutenant colonel commandants, and they are hereby required to appoint a regimental staff, to consist of one adjutant, one quarter-master, one pay-master, one surgeon, one surgeon's mate. And it shall be the duty of the adjutant, to attend the several regimental and battalion musters, as also the meeting of the officers within his regiment, to assist in the necessary training of the militia, and shall be entitled to receive for such service such compensation as shall be adjudged and allowed by the regimental court of enquiry, to be paid by order of the commanding officer of the regiment out of the fines to be collected by virtue of this act.

Persons to be appointed and paid for the conveyance of orders relating to the militia.

XLVI. And whereas inconveniences have arisen from the want of a safe and speedy conveyance of orders from the major and brigadier generals, to the commanding officers of corps, respecting the militia of this commonwealth: For remedy whereof, *Be it enacted*, That the major-generals and brigadier-generals are hereby empowered and authorised to employ some person within their respective districts, to convey all such orders, who shall be exempt from all other militia duty, and shall receive such compensation as the court of enquiry of the regiment in which district he shall reside shall think proper, on his producing a certificate to the court of his having discharged the said services.

The governor to cause this, the acts of congress relating to the militia, and the articles of war, to be printed in such number as he may deem requisite.

XLVII. *And be it further enacted*, That the Governor shall cause a sufficient number of copies of this law, together with the act of Congress, "*More effectually to provide for the national defence by establishing an uniform militia throughout the United States*," and the act of Congress, "*For calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions*," and the articles of war, to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy: And whereas the establishment of mus-

in the several corps of militia would be of great utility; to this end therefore, *Be it enacted*, That the commanding officers of regiments shall cause the drummers and fifers of their respective regiments to meet at the same times and places that commissioned officers are required to meet, for the purpose of being trained by the brigade inspector, there to be instructed in their respective branches of music, for which purpose the commanding officer of the regiment may employ such persons as he may think proper, and capable to instruct such drummers and fifers. The person so to be employed by the commanding officers of regiments shall be allowed while engaged in that service two dollars *per* day, and each drummer and fifer shall be allowed during the time they are so convened one dollar *per* day, to be paid out of the money arising from fines.

Drums and fifes to meet when commissioned officers meet, and to be compensated.

XLVIII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause.

XLIX. THIS act shall commence and be in force, from and after the first day of February next.

Commencement of this act.

CHAP. CLXXXIII.

An Act to continue and amend the act, intituled, An act to continue and amend the act, intituled, An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 17th of December, 1795.]

I. BE *it enacted*, That the act, intituled, *An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors*, passed on the tenth day of December, in the year of our lord, one thousand seven hundred and ninety-three, and one other act to continue and amend the said act, passed on the twenty-fourth day of December, in the year of our lord, one thousand seven hundred and ninety-four, shall be, and the same are hereby made perpetual, except so much thereof, as relates to replevy bonds to be entered into by the debtor or debtors in case the goods or other estate taken in execution cannot be sold for three fourths of the value thereof, and except also so much thereof, as relates to other bonds to be taken on twelve months credit from the purchasers of the said goods and estate, in case the same shall not be replevied by the said debtor or debtors, and the proceedings on the said replevy bonds, and bonds taken from purchasers as aforesaid, subject to the regulations hereinafter made.

Acts herein recited made perpetual under

Certain exceptions.

II. EVERY bond to be entered into by the debtor or debtors to replevy, or by purchasers in case of a failure of such replevin, for property taken by virtue of any execution, which shall issue after the last day of December, in the year of our lord, one thousand seven hundred and ninety-five, and before the first day of June, in the year of our lord, one thousand seven hundred and ninety-six, shall be made payable on or before the expiration of nine calendar months from the date thereof. Every such bond to be entered into on any execution which shall issue between the last day of May, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of January, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of six calendar months from the date thereof. And every such bond to be entered into on any execution which shall issue between the last day of December, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of July, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of three calendar months from the date thereof. All which said bonds to be entered into by virtue of this act, shall be taken in the same manner and form, save only as to the time of payment, as the like bonds upon twelve months credit were directed to be taken in the afore-mentioned acts; and the like remedies in all respects shall be had thereon.

Replevin and other bonds entered into for property taken under any execution issued after a fixed period, how and when to be made payable.

III. AFTER the last day of July, in the year of our lord one thousand seven hundred and ninety-seven, so much of the afore-mentioned acts as permits debtors to replevy their goods taken in execution, or in case of a failure of such replevin, authorises the sheriff or other officer to sell the said goods on credit, shall so far cease, that it shall not be lawful for any sheriff or other officer to receive any such bonds for property taken by virtue of any execution, which shall

No bond to be received for property taken and sold under any execution which may issue after the last day of July, in the year 1797.

iſſue after the ſaid laſt day of July, in the year of our lord, one thouſand ſeven hundred and ninety-ſeven, aforeſaid; but the creditor ſhall ſtill be authoriſed to purſue the ſame remedy, for obtaining the money or tobacco which may remain or become due on any ſuch bond, as if every part of the ſaid recited acts had continued in full force.

Courts on the motion of any aſſignor or aſſignors of any twelve months bonds, authoriſed to award execution againſt the original obligor or obligors.

IV. *AND be it further enacted*, That where it hath or ſhall hereafter happen, that any aſſignee or aſſignees, their executors or adminiſtrators, hath, or ſhall iſſue an execution, againſt any aſſignor or aſſignors, or their executors or adminiſtrators, on any twelve months bond taken under the aforeſaid acts, and the ſheriff or other officer hath, ſhall or may make the money or tobacco, or any part thereof on ſuch execution, in every ſuch caſe, it ſhall and may be lawful for the court from whoſe office ſuch execution ſhall or may have iſſued, upon the motion of any ſuch aſſignor or aſſignors, their executors or adminiſtrators, to award execution againſt the original obligor or obligors, in ſuch bond, their executors or adminiſtrators, or either of them, or againſt any prior aſſignor or aſſignors of ſaid bond, their executors or adminiſtrators, or either of them, for all and every ſuch ſum of money or tobacco ſo paid, with legal intereſt thereon, from the time the ſame was or ſhall have been paid, and the coſts: *Provided*, ſuch party againſt whom ſuch motion ſhall or may be made, have ten days previous notice thereof; and upon every ſuch execution the ſheriff or other officer ſhall take no ſecurity. And for the better direction of ſuch officer, the clerk ſhall endorſe upon every ſuch execution, "That no ſecurity of any kind is to be taken."

Proviſo.

Aſſignor may have like remedy againſt any prior aſſignor of any ſuch bond.

V. *AND be it further enacted*, That in every caſe where any aſſignor or aſſignors of ſuch bond, or their executors or adminiſtrators, ſhall ſuffer in manner aforeſaid, he or they ſhall have the like remedy againſt any prior aſſignor or aſſignors of ſuch bond, if any ſuch there be, or their legal repreſentatives, or either of them, as well as againſt the original obligor or obligers, and their legal repreſentatives, or either of them.

CHAP. CLXXXIV.

An Act to amend the act, intituled, An act for the ſafe keeping of priſoners committed under the authority of the United States, into any of the jails of this commonwealth.

[Paſſed the 11th of December, 1795.]

Preamble.

WHEREAS the marſhal of the diſtrict of Virginia, and his deputies, have conceived themſelves to be authoriſed by virtue of an act of Aſſembly, paſſed in the year one thouſand ſeven hundred and eighty-nine, intituled, "*An act for the ſafe keeping of priſoners committed under the authority of the United States into any of the jails of this commonwealth*," to convey debtors and other perſons arreſted on meſne proceſs, or under execution, to jails at a great diſtance from their families and homes: And whereas it is highly improper that a diſcretion ſo miſchievous and oppreſſive as to be denied to the citizens of this commonwealth, ſhould be exerciſed in favor of the ſubjects of foreign nations:

Perſons arreſted by the marſhal or his deputies what jails to be conveyed to.

I. *BE it therefore enacted*, That henceforward no debtor or other perſon arreſted on meſne proceſs, or under execution, by the marſhal or any of his deputies, ſhall be conveyed to any other jail than that of the corporation, county, or ſtate judiciary diſtrict within which ſuch debtor, or other perſon may reſide. So much of the above recited act as comes within the purview of this act, ſhall be, and the ſame is hereby repealed.

Commencement of this act.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CLXXXV.

An Act ſupplemental to the act, intituled, An act to amend the act preſcribing the mode of aſcertaining the taxable property within the commonwealth, and of collecting the public revenue.

[Paſſed the 25th of December, 1795.]

Preamble.

WHEREAS it is repreſented, that there are many tracts of patented land in this commonwealth, which it is not in the power of the commiſſioners

ers appointed agreeably to the "*Act, intituled, An act prescribing the mode of "ascertaining the taxable property within the commonwealth, and of collecting the "public revenue,*" precisely to ascertain and value agreeably to the meaning of the said recited act:

I. *BE it therefore enacted, by the General Assembly,* That in all cases where the commissioners shall not be able to find any lands subject to taxation, as aforesaid, it shall be their duty, and they are hereby required and directed, to publish a list of all such lands at the door of their respective court-houses, at least three several court days successively, and in case the owner or owners, his, her, or their agent or attorney, shall not within one month thereafter, shew the same to the said commissioners, they shall proceed to tax the said lands, agreeably to the best information they can obtain, and class the same accordingly; any thing in any law to the contrary notwithstanding. Commissioners when unable to find lands subject to taxation, shall publish and proceed to tax the same from the best information attainable.

II. THIS act shall commence in force, from the passing thereof. Commencement of this act.

CHAP. CLXXXVI.

An Act for collecting and publishing all the acts of the legislature concerning Lands.

[Passed the 4th of December, 1795.]

WHEREAS it is represented to the present General Assembly, that an opportunity now exists of collecting all the acts of the legislature, which in any manner relate to the landed property within the commonwealth: And whereas for the preservation of a multitude of rightful titles to land, it is necessary and expedient that a collection of such laws should be made and printed: Preamble.

I. *BE it enacted, by the General Assembly, and it is hereby enacted,* That a collation be made of all and singular the laws, and parts and clauses of every law, whether private or public, relative to all and singular the lands, tenements, and hereditaments whatsoever, or any of them within this commonwealth, at any time heretofore passed, and enacted, from the first settlement of Virginia, until the first day of October, in the year one thousand seven hundred and ninety-three, which shall be printed and published in octavo, well bound in calf skin. Laws concerning land, collation of to be made and published.

II. *AND be it further enacted,* That George Wythe, John Brown, John Marshall, Bushrod Washington, and John Wickham, or any three of them be, and hereby are requested and authorised, to collate the said laws, and to controul, direct, superintend and revise the edition thereof; and for this purpose to appoint a clerk to assist in the work, and especially in the making marginal notes, and an index thereto, who shall be paid a reasonable compensation for his service, to be determined by the persons herein before named, and approved by the Executive. Persons authorised to make the said collation and appoint a clerk, and determine his allowance, to be approved by the executive.

III. *AND be it further enacted,* That the edition consist of at least one thousand copies, one of which shall be sent or delivered by the executive to the clerk of each house of the General Assembly, one to the clerk of the Executive for their use, one to the register of the land office, and one to each and every clerk of any court of record in the commonwealth, and the residue shall and may be sold, and the proceeds paid by the printer into the public treasury, for and on account of the commonwealth, for the purpose of reimbursing the public treasury, the costs and expenses of the said edition, which shall and may be paid and advanced, out of the contingent fund. Number of copies and how disseminated and disposed of.

IV. *AND be it further enacted,* That until a sum sufficient for reimbursing the costs aforesaid shall be raised from the sale as aforesaid directed, it shall not be lawful for the printer directly or indirectly, or any other person, to vend or suffer to be sold any of the said books, otherwise than for the use of the said commonwealth, as aforesaid; and the printer to be employed shall take an oath and give bond and security at the time of contract, well and truly to demean himself in all things according to the directions of this act, which oath may be taken before any magistrate and certified and transmitted with the bond to the Executive. Until the costs are reimbursed, printer and other persons prohibited from selling any of the said books, and to take an oath and enter into bond accordingly.

V. THIS act shall commence and be in force, from and after the passing thereof. Commencement of this act.

CHAP. CLXXXVII.

An Act to amend the act for reducing into one, the ſeveral acts concerning the Land-Office; aſcertaining the terms and manner of granting waſte and unappropriated Lands; ſettling the titles and bounds of Lands, directing the mode of proceſſioning; and preſcribing the duty of Surveyors.

[Paſſed the 28th of December, 1795.]

Preamble.

WHEREAS it has been repreſented to this General Aſſembly, that the act, "*For reducing into one the ſeveral acts concerning the Land-Office; aſcertaining the terms and manner of granting waſte and unappropriated Lands; directing the mode of proceſſioning; and preſcribing the duty of Surveyors,*" is imperfect and productive of much inconvenience to this commonwealth and its citizens: For remedy whereof,

Regiſter inhibited from receiving certain ſurveys.

I. *BE it enacted*, That the regiſter of the land-office be, and he is hereby reſtrained from receiving in future into his office, any plat and certificate of ſurvey which evidently comprehend the rights of others, and bear date ſubſequent to the firſt day of january next, notwithſtanding any deductions or reſervations; and all ſuch ſurveys hereafter made, ſhall henceforth be deemed illegal and void; but the party ſhall nevertheleſs retain all ſuch right as he may have derived under the act aforeſaid, by means of his location upon any waſte and unappropriated land within this commonwealth.

Warrants to accompany ſurveys.

II. *BE it enacted*, That the warrant or warrants, on which a ſurvey is founded, ſhall accompany the ſame to the land-office, with a ſtatement on the back of the warrant or warrants from under the hand of the principal ſurveyor, ſpecifying the location or locations made thereon, and of the quantity actually ſatisfied by ſurvey. And ſhould more than one ſurvey be made by virtue of one warrant, the ſame ſhall accompany the firſt ſurvey, and a certificate the after ſurvey, purporting in what previous ſurvey the ſame was ſent; and in caſe the warrant or warrants ſo ſent, be not wholly located, then the claimant or claimants ſhall procure an exchange warrant or warrants from the regiſter, as he, ſhe, or they may elect for the reſidue. And in future no ſurveyor ſhall be authoriſed to receive locations or entries in his office upon a certificate of another ſurveyor.

Surveyors not to receive entries, &c. on certificate of another.

Regiſter to iſſue grants, to aſſignees of ſurveys, the aſſignment being atteſted.

III. *AND be it further enacted*, That on all plats and certificates of ſurvey already returned to the regiſter's office, or which ſhall hereafter be returned, that the regiſter iſſue grants in the name of the perſon or perſons, or their aſſignees, in whoſe name the ſurvey is made, and to no other perſon, and that he ſhall not deliver the grants to any perſon but thoſe in whoſe name they ſhall iſſue, or their order atteſted by one witneſs, which orders he ſhall carefully file and preſerve.

New record books to be opened.

IV. *AND be it further enacted*, That the preſent regiſter proceed without delay, to open new records and regiſters, for the recording grants, plats and certificates of ſurvey, and the regiſtering all warrants and titles iſſued in purſuance thereof, under the laſt act of Aſſembly for diſpoſing of waſte and unappropriated lands in this commonwealth.

Regiſter, his pay. The executive to employ a ſufficient number of clerks; ſuch clerks how compenſated.

V. *AND be it further enacted*, That the regiſter of the land-office for his ſervices, be allowed the ſum of three hundred pounds *per annum*, and the Executive are hereby empowered from time to time to regulate the number of clerks which may be neceſſary to be employed by the regiſter for performing the duties of that office, the principal one of whom ſhall be allowed the ſum of five hundred dollars *per annum*, and the reſidue of them ſuch compenſation as the Executive may deem reaſonable and adequate for their ſervices; to be paid in like manner as the reſt of the civil liſt are paid.

Part of act herein recited, further continued, and how conſtrued.

VI. *BE it enacted*, That the firſt ſection of the act paſſed at the laſt ſeſſion of Aſſembly, intituled, "*An act giving further time to the owners of certain ſurveys to return the plats and certificates thereof, into the land-office, and a further time to the owners of entries on the weſtern waters to ſurvey the ſame,*" be, and the ſame is hereby continued for twelve months from and after the thirty-firſt day of December, one thouſand ſeven hundred and ninety-five: *Be it enacted*, That ſo much of the above recited clauſe as relates to lands on the eaſtern waters, ſhall be ſo conſtrued as only to authoriſe the regiſter of the land-office to receive plats and certificates of ſurvey made on locations under the commonwealth's land warrants.

Proceſſioners, how appointed, paid, &c.

VII. *BE it enacted*, That where it has happened that any county court within this commonwealth, have failed to appoint proceſſioners according to the above recited act, in conſequence of the acts of Aſſembly not having been received by them in due time, it ſhall be lawful for ſuch county court, between the firſt day of April and the firſt day of September, which ſhall be in the year of our lord, one thouſand ſeven hundred and ninety-ſix, to appoint proceſſioners according to the directions of the above recited act, to remain in office until the expiration of the time for which ſuch proceſſioners were directed to remain in office by the ſaid recited law; and from and after that time to be appointed between the periods, and in manner therein directed. Each proceſſioner ſo appointed, and all others appointed, and to be appointed, under this, or the ſaid recited act, ſhall be allowed by the court of his county, fifty cents, for every day he ſhall be employed; and in caſe of the death, reſignation, or removal from office of any ſuch proceſſioner, the court of the county where ſuch vacancy ſhall happen are hereby authoriſed to appoint a ſucceſſor.

Tract of land lying in two precincts, to be proceſſioned, where the beginning ſhall be.

VIII. *BE it enacted*, That wherever it ſhall happen that any tract of land within this commonwealth, ſhall lie in two precincts, and within the ſame county, ſuch tract of land thus ſituated ſhall be proceſſioned in that precinct where the beginning ſhall be: *Provided nevertheleſs*, that the operation of this and the above recited act, ſo far as they reſpect ſettling the titles and bounds, and directing the mode of proceſſioning lands on the weſt ſide of the Blue Ridge, ſhall be ſuſpended for and during the term of four years, from and after the paſſage of this act.

Procedure in locating lands, forfeited for the non-payment of taxes.

IX. AND whereas by the fifth ſection of the act firſt recited, a conſideration of one dollar *per* acre is required for all lands indiſcriminately, which may have become forfeited to this commonwealth, for the non-payment of the taxes due thereon, which hath been found, to be highly injurious to the ſaid commonwealth, by reaſon of the difference of its value in different parts of this commonwealth: For remedy whereof, *Be it enacted*, That whenſoever any perſon ſhall in future be deſirous of locating ſuch lands, they ſhall in the firſt inſtance procure from the commiſſioners of the land tax, within whoſe precincts the ſame may lie, a certificate of the price at which ſuch lands ſtand charged, which certificate being delivered to the auditor, ſhall entitle the party to an order on the treaſurer for the receipt of ſo much money as ſuch lands may ſtand charged at, which being paid, and other requiſites of the ſaid act complied with, ſhall entitle the party to all ſuch right as the commonwealth may have had therein by means of the non-payment of ſuch taxes.

Repealing clauſe.

X. ALL acts and parts of acts, coming within the purview of this act, ſhall, and are hereby repealed.

Commencement of this act.

XI. THIS act ſhall commence and be in force, from and after the firſt day of January next.

CHAP. CLXXXVIII.

An Act to amend an act, intituled, An act concerning Grand-Juries, Petit-Juries, and Venire-Men.

[Paſſed the 2d of December, 1795.]

Preamble.

WHEREAS by an act, intituled, "*An act concerning grand-juries, petit-juries, and venire-men*," it is amongſt other things enacted, that "The ſheriff of each county, and the ſerjeants of the cities of Williamſburg, Richmond, and the borough of Norfolk, and other corporations within this commonwealth, ſhall before every quarter ſeſſion of the county or corporation courts reſpectively, ſummon twenty-four freeholders of his county or corporation, not being ordinary keepers, conſtables, ſurveyors of highways, or owners or occupiers of mills, out of which number ſhall be impannelled a grand-jury of ſixteen at leaſt, who ſhall be ſworn to enquire into the breach of penal laws, and make preſentment of the offenders."

By ſtanders may in certain caſes be ſummoned on grand juries.

1. AND whereas no proviſion is made by the ſaid act for the caſe where a ſmaller number (of thoſe who have been ſummoned) than ſixteen ſhould attend: *Be it enacted*, That if a ſufficient number of the ſaid freeholders ſhould not attend on the firſt day of the county or corporation court, the ſheriff or ſerjeant, (as the caſe may be) ſhall ſummon from the by-ſtanding freeholders, qualified according to law, a ſufficient number, to form, together with ſuch of the firſt mentioned freeholers as do attend, a grand-jury.

On presentment of an offence on the knowledge of two jurors, their names to be endorsed, & also the name of a witness.

II. *AND be it further enacted*, That when a presentment shall be made of any offence by the grand-jury, upon the knowledge of two of their body, the names of the grand-jurymen giving the information, shall be endorsed at the foot of the presentment; and when any presentment, information, or indictment, shall be made by the grand-jury, of any offence upon the testimony of a witness, called upon by the court or the grand-jury, to give testimony concerning the same, the name of such witness shall likewise be endorsed thereon; but in none of the cases above-mentioned the person or persons so informing, be liable to costs.

Certain persons not disqualified, to serve as grand-jurors in certain courts.

III. *AND be it further enacted*, That nothing in this or the above recited act shall be so construed as to disqualify any ordinary keeper, surveyor of a highway, or owner or occupier of a mill, from serving as grand-jurors in any of the district courts or general court of this commonwealth.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXXIX.

An Act to amend an act, intituled, An act to reduce into one, the several acts concerning slaves, free negroes, and mulattoes, and for other purposes.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS great and alarming mischiefs have arisen in other states of this Union, and are likely to arise in this by voluntary associations of individuals, who under cover of effecting that justice towards persons unwarrantably held in slavery, which the sovereignty and duty of society alone ought to afford; have in many instances been the means of depriving masters of their property in slaves, and in others occasioned them heavy expenses in tedious and unfounded law suits: To the end that a plain and easy mode may be pointed out by law for the recovery of freedom where it is unjustly and illegally denied, and that all such practices may in future be made useless and punished:

Procedure on the part of persons illegally detained in slavery, &c. and proceedings by courts or magistrates thereupon.

I. *BE it enacted*, That when any person shall conceive himself or herself illegally detained as a slave in the possession of another, it shall and may be lawful for such person to make complaint thereof either to a magistrate out of court, or to the court of the district, county, or corporation where he or she shall reside, and not elsewhere. When the complaint shall be made to a magistrate of such illegal detention, it shall be the duty of the said magistrate forthwith to issue his warrant, summoning the owner or possessor of such complainant, to appear before him or some other magistrate of the county, to answer the complaint so made, and upon his appearance shall compel him to give bond with security, equal at least to the full value of such complainant, conditioned that he shall suffer him or her to appear at the next court to be held for the district, county, or corporation wherein he or she resides, for the purpose of petitioning the said court to be allowed to sue therein in *forma pauperis*, for the recovery of his or her freedom; and if such master or holder shall fail or deny to give security as aforesaid, such magistrate shall order the complainant into the custody of the officer serving the warrant, to be kept by him safely at the expense of such master or holder, until the sitting of the first court that shall happen after such judgment by him given, and produce him or her before such court.

Petition for freedom to recite material facts; counsel to be appointed who shall report the case and his opinion before process shall issue.

II. WHEN a petition shall be offered to the court of any district, county, or corporation, by any person or persons so complaining, it shall state the material facts of the case, which being proved by affidavit or otherwise, to the satisfaction of such court, the petitioner shall obtain counsel, to be assigned by the said court, who, without fee or reward, shall prosecute the suit of such complainant: But before process shall issue upon the said petition, the counsel so appointed shall make an exact statement to the court, of the circumstances of the case, with his opinion thereupon, and unless from such circumstances and opinion, the court shall see manifest reason to deny their interference, they shall order their clerk to issue process against the owner, to appear and answer the complaint, and in the mean time, that such complainant shall be in custody of the sheriff, until the owner shall give bond with security, either in court, or with the clerk of the court, to have him or her forthcoming to answer the judgment of the court; in which case the complainant shall be returned into possession of the owner.

III. *AND be it further enacted*, That if any perſon or perſons, ſhall be found aiding, abetting, or maintaining any perſon in the proſecution of a ſuit upon a petition as aforeſaid, and ſuch perſon or perſons ſhall fail to eſtabliſh his or their claim to freedom, every perſon ſo found aiding, abetting, or maintaining, ſhall forfeit and pay to the owner of ſuch ſlave, or to the perſon who ſhall proſecute for the ſame, the ſum of one hundred dollars, for every perſon ſo complaining; to be recovered by action of debt or information in any court of record within this commonwealth, and moreover be liable to an action on the caſe for damages ariſing therefrom, to the party grieved thereby. Penalty on perſons aiding in the proſecution of ſuch petition in certain caſes.

IV. AND whereas it is doubted whether a widow who ſhall within one year from the death of her huſband, declare, in the manner preſcribed by law, that ſhe will not take or accept the proviſion made for her by her huſband's will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will, be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, and which by his will are directed to be emancipated and ſet free;—for removing ſuch doubts in future, and for a plain declaration of the law herein: *Be it enacted*, That in all ſuch caſes the widow ſhall be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, notwithſtanding they may be emancipated by his will: *Provided nevertheleſs*, that where part of the ſlaves only ſhall be emancipated, the widow's part ſhall be taken out of thoſe which are not ſet free, if there be enough to make one third part of the whole number whereof the huſband died poſſeſſed: And the widow in all ſuch caſes ſhall recover by preferring her bill in chancery againſt the executor or adminiſtrator, with the will annexed, one third part of ſuch ſlaves, which one third ſo to be allotted to her, ſhall be aſcertained by caſting lot: *Provided nevertheleſs*, that in all ſuch caſes where the perſonal eſtate of the huſband, after payment of debts and juſt expenſes, ſhall be ſufficient to compenſate the widow for the value of her third part of the ſlaves whereof her huſband died poſſeſſed, the executor or adminiſtrator, with the will annexed, ſhall pay to her ſuch ſum as ſhall be equivalent to her life eſtate in one third part of ſuch ſlaves; which ſum ſhall be aſcertained by perſons to be appointed for that purpoſe by the court, upon the application of the parties. Widow's dower ſaved in ſlaves, although emancipated by huſband's will. Proviſo. Mode of recovery of ſuch ſlaves. Proviſo.

V. *BE it alſo enacted*, That if any perſon ſhall make, forge, or counterfeit, or cauſe to be made, forged, or counterfeited, or willingly act, or aſſiſt in the making, forging, or counterfeiting any writing whatſoever, whereby any ſlave or ſervant of another, without the approbation or conſent of the owner, maſter, or miſtreſs of ſuch ſlave or ſervant ſhall be declared to be or intended to be emancipated, or ſhall be ſuffered to go at large, or paſs as a free perſon for any ſpace of time, every perſon ſo offending and thereof legally convicted, ſhall forfeit and pay the ſum of two hundred dollars, and ſuffer one year's impriſonment without bail or mainprize. Penalty on perſons convicted of forging, &c. or aiding, &c. in forging inſtruments of writing whereby ſlaves may paſs as free,

VI. THIS act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and ninety-ſix. Commencement of this act.

CHAP. CXC.

An Act preſcribing a mode for making a Title to the Purchaſers of Lands heretofore ſold by Sheriffs for arrears of Taxes.

[Paſſed the 12th of December, 1795.]

I. BE *it enacted*, That in all ſales of lands heretofore made according to law, on account of arrearages of public taxes, by any ſheriff or other officer who may have departed this life before conveyance thereof to the purchaſer or purchaſers, and in which caſes, conveyances ought yet to be made, it ſhall and may be lawful for the ſheriff of the county, where the land lies, now in office, or his ſucceſſor, to convey the ſame to the purchaſer or purchaſers, or his or their heirs or aſſigns, in as full and ample manner as the ſheriff or other officer who made the ſale, might or ſhould have done, which conveyance ſhall recite the ſale and conſideration, and ſhall be effectual for paſſing to the purchaſer or purchaſers, or his or their heirs or aſſigns, all the eſtate and intereſt which the debtor or commonwealth had or might lawfully part with in the lands ſo ſold as aforeſaid. Title to the purchaſers of lands heretofore ſold for arrears of taxes, in caſe of the death of the officer who ſold the ſame, how made.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CXCI.

An Act to explain and amend the act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names.

[Passed the 25th of December, 1795.]

Drafts of money by a resident of this, on any person in the United States, declared inland bills, subject in certain cases to damages.

I. BE *it enacted by the General Assembly*, That all bills of exchange, or drafts for money in the nature of bills of exchange, drawn by any person or persons residing in this state, on any person or persons in the United States, shall be considered in all cases whatsoever as inland bills of exchange; and if such bill of exchange or draft shall be protested for non-acceptance or non-payment, the drawer or indorser shall be subject to the payment of one *per centum* damages thereon, and the bill of exchange or draft shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid; any thing in any law to the contrary notwithstanding.

Suits maintainable in the name of an assignee of any bond, bill, or obligation whatever.

II. *AND be it further enacted*, That a suit may be maintained in the name of an assignee or assignees on any bond, bill, or obligation, whatever, in like manner as such suit may be maintained by the assignee or assignees of a bond, bill, or obligation for the payment of money or tobacco.

Commencement of this Act.

III. THIS act shall be in force and have effect from and after the first day of March next.

CHAP. CXCII.

An Act to amend the Act, intituled, An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS in the construction of the act, intituled, "*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of the district courts*," it hath been held that the judges of the general court cannot attend, or hold a district court, except in such districts only, as they may be respectively allotted to, which construction hath been attended with some inconvenience:

Judges of the General Court may attend and hold a District Court in any District.

I. *BE it therefore enacted by the General Assembly*, That from and after the passing of this act, it shall be lawful for the judges of the general court, or either of them, notwithstanding any allotment heretofore made, or hereafter to be made among them, to attend and hold a district court pursuant to the directions of the said recited act, in any other district than those to which they shall be respectively allotted: *Provided*, the judges allotted to such district, shall fail to attend the same; any thing in the said act to the contrary, or seeming to the contrary notwithstanding: *And provided also*, that when such allotments shall be made, no judge shall exchange the district to which he is allotted.

Provisoes.

CHAP. CXCIII.

An Act to amend the Act to reduce into one, all the acts and parts of Acts relating to the appointment and duties of sheriffs.

[Passed the 24th of December, 1795.]

When all the justices of a county shall refuse the sheriffalty thereof the court to recommend two freeholders.

I. BE *it enacted by the General Assembly, and it is hereby enacted*, That when from any cause the whole number of the justices of the peace in commission for any county in this commonwealth, shall refuse to accept the office of high sheriff in any county; that then it shall be the duty of the county court forthwith to recommend to the Executive, two honest and substantial freeholders residing in such county, willing to accept the said office, one of whom shall be commissioned by the Governor, with the advice of Council, as high sheriff for the respective county, to serve in the said capacity for the term of one year from the date of the commission.

Person thus commissioned to have same emoluments and be subject to like penalties as other sheriffs.

II. *AND be it also enacted*, That any person so as aforesaid commissioned may be continued in office for the same length of time, that sheriffs may now be continued therein: and that he shall be subject to the same penalties and remedies, and be entitled to the same privileges and commissions, as sheriffs are now subject and entitled to by law.

III. AND where no perſon will accept the appointment of ſheriff in his county, the Governor, with advice of Council, may on recommendation from the county court, appoint any perſon willing to accept the ſame, reſiding within, and being a citizen of this commonwealth, who ſhall be commiſſioned, and be liable to the ſame fines and penalties as ſheriffs are now ſubject and entitled to by law. Where no perſon will accept ſheriffalty, executive to appoint.

IV. *AND be it further enacted*, That all ſheriffs now in office, as well as thoſe hereafter commiſſioned, ſhall at the end of the two years which they ſhall have acted, receive of the treaſurer of this commonwealth a commiſſion of two and a half *per cent.* over and above the commiſſion heretofore allowed by law, on the amount of the taxes paid into the treaſury: *Provided*, they ſhall have annually, faithfully, and punctually paid into the treaſury the full amount of the dues from the county for which they were ſheriff. Additional per centum allowed ſheriffs. Proviſo.

V. *AND be it further enacted*, That if any ſheriff who ſhall have punctually paid into the treaſury the full amount of all the public dues from his county as aforeſaid, ſhall die previous to the end of the ſecond year, for which he was appointed, that his legal repreſentatives ſhall be entitled to receive the aforeſaid additional commiſſions. Like emolument extended to his repreſentatives in caſe of death.

VI. *AND be it further enacted*, That the lands of deputy ſheriffs, and their ſecurities, ſhall be bound to the high ſheriffs in like manner as the lands of the high ſheriffs are bound to the commonwealth; and it ſhall be lawful for the general court, the diſtrict or county courts, to award a like execution againſt the ſaid lands, on the motion of ſuch high ſheriff, his executors or adminiſtrators to that which would have been iſſued on behalf of the commonwealth: *Provided*, that ten days previous notice ſhall be given to the ſaid deputy and his ſecurities, their heirs or deviſees, as the caſe may be. Lands of deputy ſheriffs and their ſecurities bound to high ſheriffs.

VII. *AND be it further enacted*, That whenſoever the lands of any deputy ſheriff would have been bound for any debt due to the high ſheriff, they ſhall be bound in like manner to the ſecurity or ſecurities, their executors or adminiſtrators, who may have paid the whole or a part of ſuch debt, and it ſhall be lawful for the general court or diſtrict courts to award a like execution againſt the ſaid lands on the motion of ſuch ſecurities, to that which would have been iſſued on behalf of the high ſheriff: *Provided*, that ten days previous notice ſhall be given to the principal, his heir, or deviſee, as the caſe may be, Lands of deputy ſheriffs bound to their ſecurities. Proviſo.

VIII. AND whereas in the twenty-eighth ſection of the act, intituled "*An act to reduce into one, all acts and parts of acts relating to the appointment and duties of ſheriffs*," which gives a remedy to the ſecurity or ſecurities of high ſheriffs, where they may have paid the whole or any part of a debt due to the commonwealth from his or their principal, it is not provided that the ſaid remedy be had by the executors or adminiſtrators of ſuch ſecurity: *Be it therefore enacted*, That the ſame remedy in the act aforeſaid given to the ſecurities of a high ſheriff, ſhall be, and is hereby given to their executors and adminiſtrators. Remedy given by law to ſecurities of high ſheriffs extended to executors, &c. of ſecurities.

IX. THIS act ſhall commence and be in force, from and after the firſt day of January, in the year of our Lord, one thouſand ſeven hundred and ninety-ſix. Commencement of this Act.

CHAP. CXCIV.

An Act, to amend an act, intituled, An Act reducing into one the ſeveral Acts to oblige veſſels coming from foreign parts to perform quarantine.

[Paſſed the 19th of December, 1795.]

WHEREAS by the exiſting laws of this commonwealth, to "oblige veſſels coming from foreign parts to perform quarantine," the Executive are not authoriſed to deſignate more than one place for that purpoſe, which has been found by experience to be attended with much inconvenience and delay: Preamble.

I. *BE it therefore enacted, by the General Aſſembly*, That in addition to the place pointed out by the Governor at the mouth of Elizabeth river, it ſhall be lawful for him, and he is hereby empowered, with the advice of council, to eſtabliſh ſome other place in the river Patowmac, as near the head of the tide water, as ſhall be conſidered convenient and ſafe, and at any other place or places along the ſea board of this commonwealth, as ſhall be deemed neceſſary and expedient; and that he ſhall cauſe to be erected at the public expenſe at all ſuch places ſo pointed out as proper for the performance of quarantine, ſufficient buildings for the ſafe keeping of the goods or merchandiſe which it Governor to decide on places ſuitable for performance of quarantine and cauſe houſe to be erected thereon for purpoſes herein mentioned.

Officers of the patrole to make report, and such patrollers thereupon to be compensated.

manner be ordered for the same service. And after every patrole, the officer of every party shall once in every month at least, return a report in writing upon oath, to the court of the county in which he shall reside, and if the said court shall judge the said patrollers to have performed their duty according to law, they are thereupon empowered to levy seventy-five cents for every twelve hours each of them shall so patrole: and every officer failing to appoint patrollers according to the directions of this act, shall forfeit and pay twenty dollars for every such failure; and every serjeant failing to notify the number of privates ordered by such officer, or to attend such patrole, shall forfeit and pay for every such failure three dollars, and every patrole failing to attend such patrole and do his duty, shall forfeit and pay one dollar: Which fines shall be laid, collected, accounted for, and appropriated as is herein directed, for laying, accounting for and appropriating the several fines and penalties by this act directed.

Penalty on serjeants failing to notify or attend—and on patrollers to attend such patrole.

Adjutant general and brigade inspectors, their pay; the former to keep an office in the city of Richmond; penalty on the latter for failing to attend the regimental musters.

XL. *AND be it further enacted*, That the adjutant-general shall be allowed four hundred dollars *per* year, and that each brigade inspector shall be allowed two hundred dollars *per* year, for the duties herein required of them, to be paid by the treasurer on warrant from the auditor, who is hereby authorised and required to grant the same quarter yearly, on proper application being made. *And be it further enacted*, That the adjutant general shall, and he is hereby required to establish and keep, either in person, or by deputy, an office in the city of Richmond, for the necessary transaction of the business annexed to that office. And every brigade inspector failing to attend the several regimental musters of the brigade, shall pay for every such failure fifty dollars.

Resignations how made and vacancies occasioned thereby supplied.

XLI. THE commanding officers of regiments are hereby empowered to receive the commission of any officer of his regiment who may think proper to resign, and shall notify such resignation to the next succeeding court, in order that such vacancy may be supplied.

Arms exempted from distress and executions, &c.

XLII. ALL arms, ammunition, and equipments of the militia shall be exempted from executions and distresses at all times, and their persons from arrests and process in civil cases, while going to, continuing at, or returning from musters, and while in actual service.

Militia of incorporated towns governed as other militia.

XLIII. THE militia of the city of Williamsburg, city of Richmond, and borough of Norfolk, shall have their officers appointed, and be under the same rules and regulations as the different counties.

Fines on infants and apprentices, by whom to be paid.

XLIV. THE fines and penalties incurred by infants and apprentices for the breach or neglect of their duty in any particular service by law required of them, shall be paid by the parent, guardian, or master.

Lieutenant colonel commandants to appoint a regimental staff —Duty of and allowance to the adjutant.

XLV. IT shall be lawful for the lieutenant colonel commandants, and they are hereby required to appoint a regimental staff, to consist of one adjutant, one quarter-master, one pay-master, one surgeon, one surgeon's mate. And it shall be the duty of the adjutant, to attend the several regimental and battalion musters, as also the meeting of the officers within his regiment, to assist in the necessary training of the militia, and shall be entitled to receive for such service such compensation as shall be adjudged and allowed by the regimental court of enquiry, to be paid by order of the commanding officer of the regiment out of the fines to be collected by virtue of this act.

Persons to be appointed and paid for the conveyance of orders relating to the militia.

XLVI. And whereas inconveniences have arisen from the want of a safe and speedy conveyance of orders from the major and brigadier generals, to the commanding officers of corps, respecting the militia of this commonwealth: For remedy whereof, *Be it enacted*, That the major-generals and brigadier-generals are hereby empowered and authorised to employ some person within their respective districts, to convey all such orders, who shall be exempt from all other militia duty, and shall receive such compensation as the court of enquiry of the regiment in which district he shall reside shall think proper, on his producing a certificate to the court of his having discharged the said services.

The governor to cause this, the acts of congress relating to the militia, and the articles of war, to be printed in such number as he may deem requisite.

XLVII. *And be it further enacted*, That the Governor shall cause a sufficient number of copies of this law, together with the act of Congress, "*More effectually to provide for the national defence by establishing an uniform militia throughout the United States*," and the act of Congress, "*For calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions*," and the articles of war, to be printed and distributed throughout this state, so that every general and field officer, and every brigade inspector and captain, be furnished with one copy: And whereas the establishment of mus-

in the several corps of militia would be of great utility; to this end therefore, *Be it enacted*, That the commanding officers of regiments shall cause the drummers and fifers of their respective regiments to meet at the same times and places that commissioned officers are required to meet, for the purpose of being trained by the brigade inspector, there to be instructed in their respective branches of music, for which purpose the commanding officer of the regiment may employ such persons as he may think proper, and capable to instruct such drummers and fifers. The person so to be employed by the commanding officers of regiments shall be allowed while engaged in that service two dollars *per* day, and each drummer and fifer shall be allowed during the time they are so convened one dollar *per* day, to be paid out of the money arising from fines.

Drums and fifes to meet when commissioned officers meet, and to be compensated.

XLVIII. *AND be it further enacted*, That all acts and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

Repealing clause.

XLIX. THIS act shall commence and be in force, from and after the first day of February next.

Commencement of this act.

CHAP. CLXXXIII.

An Act to continue and amend the act, intituled, An act to continue and amend the act, intituled, An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning Executions, and for the relief of Insolvent Debtors.

[Passed the 17th of December, 1795.]

I. BE *it enacted*, That the act, intituled, *An act for further continuing and amending the act, intituled, An act for reducing into one, the several acts concerning executions, and for the relief of insolvent debtors*, passed on the tenth day of December, in the year of our lord, one thousand seven hundred and ninety-three, and one other act to continue and amend the said act, passed on the twenty-fourth day of December, in the year of our lord, one thousand seven hundred and ninety-four, shall be, and the same are hereby made perpetual, except so much thereof, as relates to replevy bonds to be entered into by the debtor or debtors in case the goods or other estate taken in execution cannot be sold for three fourths of the value thereof, and except also so much thereof, as relates to other bonds to be taken on twelve months credit from the purchasers of the said goods and estate, in case the same shall not be replevied by the said debtor or debtors, and the proceedings on the said replevy bonds, and bonds taken from purchasers as aforesaid, subject to the regulations hereinafter made.

Acts herein recited made perpetual under

Certain exceptions.

II. EVERY bond to be entered into by the debtor or debtors to replevy, or by purchasers in case of a failure of such replevin, for property taken by virtue of any execution, which shall issue after the last day of December, in the year of our lord, one thousand seven hundred and ninety-five, and before the first day of June, in the year of our lord, one thousand seven hundred and ninety-six, shall be made payable on or before the expiration of nine calendar months from the date thereof. Every such bond to be entered into on any execution which shall issue between the last day of May, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of January, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of six calendar months from the date thereof. And every such bond to be entered into on any execution which shall issue between the last day of December, in the year of our lord, one thousand seven hundred and ninety-six, and the first day of July, in the year of our lord, one thousand seven hundred and ninety-seven, shall be made payable on or before the expiration of three calendar months from the date thereof. All which said bonds to be entered into by virtue of this act, shall be taken in the same manner and form, save only as to the time of payment, as the like bonds upon twelve months credit were directed to be taken in the afore-mentioned acts; and the like remedies in all respects shall be had thereon.

Replevin and other bonds entered into for property taken under any execution issued after a fixed period, how and when to be made payable.

III. AFTER the last day of July, in the year of our lord one thousand seven hundred and ninety-seven, so much of the afore-mentioned acts as permits debtors to replevy their goods taken in execution, or in case of a failure of such replevin, authorises the sheriff or other officer to sell the said goods on credit, shall so far cease, that it shall not be lawful for any sheriff or other officer to receive any such bonds for property taken by virtue of any execution, which shall

No bond to be received for property taken and sold under any execution on which may issue after the last day of July, in the year 1797.

issue after the said last day of July, in the year of our lord, one thousand seven hundred and ninety-seven, aforesaid; but the creditor shall still be authorised to pursue the same remedy, for obtaining the money or tobacco which may remain or become due on any such bond, as if every part of the said recited acts had continued in full force.

Courts on the motion of any assignor or assignors of any twelve months bonds, authorised to award execution against the original obligor or obligors.

IV. *AND be it further enacted*, That where it hath or shall hereafter happen, that any assignee or assignees, their executors or administrators, hath, or shall issue an execution, against any assignor or assignors, or their executors or administrators, on any twelve months bond taken under the aforesaid acts, and the sheriff or other officer hath, shall or may make the money or tobacco, or any part thereof on such execution, in every such case, it shall and may be lawful for the court from whose office such execution shall or may have issued, upon the motion of any such assignor or assignors, their executors or administrators, to award execution against the original obligor or obligors, in such bond, their executors or administrators, or either of them, or against any prior assignor or assignors of said bond, their executors or administrators, or either of them, for all and every such sum of money or tobacco so paid, with legal interest thereon, from the time the same was or shall have been paid, and the costs: *Provided*, such party against whom such motion shall or may be made, have ten days previous notice thereof; and upon every such execution the sheriff or other officer shall take no security. And for the better direction of such officer, the clerk shall endorse upon every such execution, "That no security of any kind is to be taken."

Proviso.

Assignor may have like remedy against any prior assignor of any such bond.

V. *AND be it further enacted*, That in every case where any assignor or assignors of such bond, or their executors or administrators, shall suffer in manner aforesaid, he or they shall have the like remedy against any prior assignor or assignors of such bond, if any such there be, or their legal representatives, or either of them, as well as against the original obligor or obligors, and their legal representatives, or either of them.

CHAP. CLXXXIV.

An Act to amend the act, intituled, An act for the safe keeping of prisoners committed under the authority of the United States, into any of the jails of this commonwealth.

[Passed the 11th of December, 1795.]

Preamble.

WHEREAS the marshal of the district of Virginia, and his deputies, have conceived themselves to be authorised by virtue of an act of Assembly, passed in the year one thousand seven hundred and eighty-nine, intituled, "*An act for the safe keeping of prisoners committed under the authority of the United States into any of the jails of this commonwealth*," to convey debtors and other persons arrested on mesne process, or under execution, to jails at a great distance from their families and homes: And whereas it is highly improper that a discretion so mischievous and oppressive as to be denied to the citizens of this commonwealth, should be exercised in favor of the subjects of foreign nations:

Persons arrested by the marshal or his deputies what jails to be conveyed to.

I. *BE it therefore enacted*, That henceforward no debtor or other person arrested on mesne process, or under execution, by the marshal or any of his deputies, shall be conveyed to any other jail than that of the corporation, county, or state judiciary district within which such debtor, or other person may reside. So much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXXV.

An Act supplemental to the act, intituled, An act to amend the act prescribing the mode of ascertaining the taxable property within the commonwealth, and of collecting the public revenue.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS it is represented, that there are many tracts of patented land in this commonwealth, which it is not in the power of the commissioners

ers appointed agreeably to the "*Act, intituled, An act prescribing the mode of "ascertaining the taxable property within the commonwealth, and of collecting the "public revenue,*" precisely to ascertain and value agreeably to the meaning of the said recited act:

Commissioners when unable to find lands subject to taxation, shall publish and proceed to tax the same from the best information attainable.

I. *BE it therefore enacted, by the General Assembly,* That in all cases where the commissioners shall not be able to find any lands subject to taxation, as aforesaid, it shall be their duty, and they are hereby required and directed, to publish a list of all such lands at the door of their respective court-houses, at least three several court days successively, and in case the owner or owners, his, her, or their agent or attorney, shall not within one month thereafter, shew the same to the said commissioners, they shall proceed to tax the said lands, agreeably to the best information they can obtain, and class the same accordingly; any thing in any law to the contrary notwithstanding.

Commencement of this act.

II. THIS act shall commence in force, from the passing thereof.

CHAP. CLXXXVI.

An Act for collecting and publishing all the acts of the legislature concerning Lands.

[Passed the 4th of December, 1795.]

Preamble.

WHEREAS it is represented to the present General Assembly, that an opportunity now exists of collecting all the acts of the legislature, which in any manner relate to the landed property within the commonwealth: And whereas for the preservation of a multitude of rightful titles to land, it is necessary and expedient that a collection of such laws should be made and printed:

Laws concerning land, collation of to be made and published.

I. *BE it enacted, by the General Assembly, and it is hereby enacted,* That a collation be made of all and singular the laws, and parts and clauses of every law, whether private or public, relative to all and singular the lands, tenements, and hereditaments whatsoever, or any of them within this commonwealth, at any time heretofore passed, and enacted, from the first settlement of Virginia, until the first day of October, in the year one thousand seven hundred and ninety-three, which shall be printed and published in octavo, well bound in calf skin.

Persons authorised to make the said collation and appoint a clerk, and determine his allowance, to be approved by the executive.

II. *AND be it further enacted,* That George Wythe, John Brown, John Marshall, Bushrod Washington, and John Wickham, or any three of them be, and hereby are requested and authorised, to collate the said laws, and to controul, direct, superintend and revise the edition thereof; and for this purpose to appoint a clerk to assist in the work, and especially in the making marginal notes, and an index thereto, who shall be paid a reasonable compensation for his service, to be determined by the persons herein before named, and approved by the Executive.

Number of copies and how disseminated and disposed of.

III. *AND be it further enacted,* That the edition consist of at least one thousand copies, one of which shall be sent or delivered by the executive to the clerk of each house of the General Assembly, one to the clerk of the Executive for their use, one to the register of the land office, and one to each and every clerk of any court of record in the commonwealth, and the residue shall and may be sold, and the proceeds paid by the printer into the public treasury, for and on account of the commonwealth, for the purpose of reimbursing the public treasury, the costs and expenses of the said edition, which shall and may be paid and advanced, out of the contingent fund.

Until the costs are reimbursed, printer and other persons prohibited from selling any of the said books, and to take an oath and enter into bond accordingly.

IV. *AND be it further enacted,* That until a sum sufficient for reimbursing the costs aforesaid shall be raised from the sale as aforesaid directed, it shall not be lawful for the printer directly or indirectly, or any other person, to vend or suffer to be sold any of the said books, otherwise than for the use of the said commonwealth, as aforesaid; and the printer to be employed shall take an oath and give bond and security at the time of contract, well and truly to demean himself in all things according to the directions of this act, which oath may be taken before any magistrate and certified and transmitted with the bond to the Executive.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXXVII.

An Act to amend the act for reducing into one, the ſeveral acts concerning the Land-Office; aſcertaining the terms and manner of granting waſte and unappropriated Lands; ſettling the titles and bounds of Lands, directing the mode of proceſſioning; and preſcribing the duty of Surveyors.

[Paſſed the 28th of December, 1795.]

Preamble.

WHEREAS it has been repreſented to this General Aſſembly, that the act, "*For reducing into one the ſeveral acts concerning the Land-Office; aſcertaining the terms and manner of granting waſte and unappropriated Lands; directing the mode of proceſſioning; and preſcribing the duty of Surveyors,*" is imperfect and productive of much inconvenience to this commonwealth and its citizens: For remedy whereof,

Regiſter inhibited from receiving certain ſurveys.

I. *BE it enacted*, That the regiſter of the land-office be, and he is hereby reſtrained from receiving in future into his office, any plat and certificate of ſurvey which evidently comprehend the rights of others, and bear date ſubſequent to the firſt day of January next, notwithſtanding any deductions or reſervations; and all ſuch ſurveys hereafter made, ſhall henceforth be deemed illegal and void; but the party ſhall nevertheleſs retain all ſuch right as he may have derived under the act aforeſaid, by means of his location upon any waſte and unappropriated land within this commonwealth.

Warrants to accompany ſurveys.

II. *BE it enacted*, That the warrant or warrants, on which a ſurvey is founded, ſhall accompany the ſame to the land-office, with a ſtatement on the back of the warrant or warrants from under the hand of the principal ſurveyor, ſpecifying the location or locations made thereon, and of the quantity actually ſatisfied by ſurvey. And ſhould more than one ſurvey be made by virtue of one warrant, the ſame ſhall accompany the firſt ſurvey, and a certificate the after ſurvey, purporting in what previous ſurvey the ſame was ſent; and in caſe the warrant or warrants ſo ſent, be not wholly located, then the claimant or claimants ſhall procure an exchange warrant or warrants from the regiſter, as he, ſhe, or they may elect for the reſidue. And in future no ſurveyor ſhall be authoriſed to receive locations or entries in his office upon a certificate of another ſurveyor.

Surveyors not to receive entries, &c. on certificate of another.

Regiſter to iſſue grants, to aſſignees of ſurveys, the aſſignment being atteſted.

III. *AND be it further enacted*, That on all plats and certificates of ſurvey already returned to the regiſter's office, or which ſhall hereafter be returned, that the regiſter iſſue grants in the name of the perſon or perſons, or their aſſignees, in whoſe name the ſurvey is made, and to no other perſon, and that he ſhall not deliver the grants to any perſon but thoſe in whoſe name they ſhall iſſue, or their order atteſted by one witneſs, which orders he ſhall carefully file and preſerve.

New record books to be opened.

IV. *AND be it further enacted*, That the preſent regiſter proceed without delay, to open new records and regiſters, for the recording grants, plats and certificates of ſurvey, and the regiſtering all warrants and titles iſſued in purſuance thereof, under the laſt act of Aſſembly for diſpoſing of waſte and unappropriated lands in this commonwealth.

Regiſter, his pay. The executive to employ a ſufficient number of clerks; ſuch clerks how compenſated.

V. *AND be it further enacted*, That the regiſter of the land-office for his ſervices, be allowed the ſum of three hundred pounds *per annum*, and the Executive are hereby empowered from time to time to regulate the number of clerks which may be neceſſary to be employed by the regiſter for performing the duties of that office, the principal one of whom ſhall be allowed the ſum of five hundred dollars *per annum*, and the reſidue of them ſuch compenſation as the Executive may deem reaſonable and adequate for their ſervices; to be paid in like manner as the reſt of the civil liſt are paid.

Part of act herein recited, further continued, and how conſtrued.

VI. *BE it enacted*, That the firſt ſection of the act paſſed at the laſt ſeſſion of Aſſembly, intituled, "*An act giving further time to the owners of certain "ſurveys to return the plats and certificates thereof, into the land-office, and a further "time to the owners of entries on the weſtern waters to ſurvey the ſame,*" be, and the ſame is hereby continued for twelve months from and after the thirty-firſt day of December, one thouſand ſeven hundred and ninety-five: *Be it enacted*, That ſo much of the above recited clauſe as relates to lands on the eaſtern waters, ſhall be ſo conſtrued as only to authoriſe the regiſter of the land-office to receive plats and certificates of ſurvey made on locations under the commonwealth's land warrants.

VII. *BE it enacted*, That where it has happened that any county court within this commonwealth, have failed to appoint proceſſioners according to the above recited act, in conſequence of the acts of Aſſembly not having been received by them in due time, it ſhall be lawful for ſuch county court, between the firſt day of April and the firſt day of September, which ſhall be in the year of our lord, one thouſand ſeven hundred and ninety-ſix, to appoint proceſſioners according to the directions of the above recited act, to remain in office until the expiration of the time for which ſuch proceſſioners were directed to remain in office by the ſaid recited law; and from and after that time to be appointed between the periods, and in manner therein directed. Each proceſſioner ſo appointed, and all others appointed, and to be appointed, under this, or the ſaid recited act, ſhall be allowed by the court of his county, fifty cents, for every day he ſhall be employed; and in caſe of the death, reſignation, or removal from office of any ſuch proceſſioner, the court of the county where ſuch vacancy ſhall happen are hereby authoriſed to appoint a ſucceſſor. Proceſſioners, how appointed, paid, &c.

VIII. *BE it enacted*, That wherever it ſhall happen that any tract of land within this commonwealth, ſhall lie in two precincts, and within the ſame county, ſuch tract of land thus ſituated ſhall be proceſſioned in that precinct where the beginning ſhall be: *Provided nevertheleſs*, that the operation of this and the above recited act, ſo far as they reſpect ſettling the titles and bounds, and directing the mode of proceſſioning lands on the weſt ſide of the Blue Ridge, ſhall be ſuſpended for and during the term of four years, from and after the paſſage of this act. Tract of land lying in two precincts, to be proceſſioned, where the beginning ſhall be.

IX. AND whereas by the fifth ſection of the act firſt recited, a conſideration of one dollar *per* acre is required for all lands indiſcriminately, which may have become forfeited to this commonwealth, for the non-payment of the taxes due thereon, which hath been found, to be highly injurious to the ſaid commonwealth, by reaſon of the difference of its value in different parts of this commonwealth: For remedy whereof, *Be it enacted*, That whenſoever any perſon ſhall in future be deſirous of locating ſuch lands, they ſhall in the firſt inſtance procure from the commiſſioners of the land tax, within whoſe precincts the ſame may lie, a certificate of the price at which ſuch lands ſtand charged, which certificate being delivered to the auditor, ſhall entitle the party to an order on the treaſurer for the receipt of ſo much money as ſuch lands may ſtand charged at, which being paid, and other requiſites of the ſaid act complied with, ſhall entitle the party to all ſuch right as the commonwealth may have had therein by means of the non-payment of ſuch taxes. Procedure in locating lands, forfeited for the non payment of taxes.

X. ALL acts and parts of acts, coming within the purview of this act, ſhall and are hereby repealed. Repealing clauſe.

XI. THIS act ſhall commence and be in force, from and after the firſt day of January next. Commencement of this act.

CHAP. CLXXXVIII.

An Act to amend an act, intituled, An act concerning Grand-Juries, Petit-Juries, and Venire-Men.

[Paſſed the 2d of December, 1795.]

WHEREAS by an act, intituled, "*An act concerning grand-juries, petit-juries, and venire-men*," it is amongſt other things enacted, that "The ſheriff of each county, and the ſerjeants of the cities of Williamſburg, Richmond, and the borough of Norfolk, and other corporations within this commonwealth, ſhall before every quarter ſeſſion of the county or corporation courts reſpectively, ſummon twenty-four freeholders of his county or corporation, not being ordinary keepers, conſtables, ſurveyors of highways, or owners or occupiers of mills, out of which number ſhall be impannelled a grand-jury of ſixteen at leaſt, who ſhall be ſworn to enquire into the breach of penal laws, and make preſentment of the offenders." Preamble.

I. AND whereas no proviſion is made by the ſaid act for the caſe where a ſmaller number (of thoſe who have been ſummoned) than ſixteen ſhould attend: *Be it enacted*, That if a ſufficient number of the ſaid freeholders ſhould not attend on the firſt day of the county or corporation court, the ſheriff or ſerjeant, (as the caſe may be) ſhall ſummon from the by-ſtanding freeholders, qualified according to law, a ſufficient number, to form, together with ſuch of the firſt mentioned freeholers as do attend, a grand-jury. By ſtanders may in certain caſes be ſummoned on grand juries.

On presentment of an offence on the knowledge of two jurors, their names to be endorsed, so also the name of a witness.

II. *AND be it further enacted*, That when a presentment shall be made of any offence by the grand-jury, upon the knowledge of two of their body, the names of the grand-jurymen giving the information, shall be endorsed at the foot of the presentment; and when any presentment, information, or indictment, shall be made by the grand-jury, of any offence upon the testimony of a witness, called upon by the court or the grand-jury, to give testimony concerning the same, the name of such witness shall likewise be endorsed thereon; but in none of the cases above-mentioned the person or persons so informing, be liable to costs.

Certain persons not disqualified, to serve as grand-jurors in certain courts.

III. *AND be it further enacted*, That nothing in this or the above recited act shall be so construed as to disqualify any ordinary keeper, surveyor of a highway, or owner or occupier of a mill, from serving as grand-jurors in any of the district courts or general court of this commonwealth.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CLXXXIX.

An Act to amend an act, intituled, An act to reduce into one, the several acts concerning slaves, free negroes, and mulattoes, and for other purposes.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS great and alarming mischiefs have arisen in other states of this Union, and are likely to arise in this by voluntary associations of individuals, who under cover of effecting that justice towards persons unwarrantably held in slavery, which the sovereignty and duty of society alone ought to afford; have in many instances been the means of depriving masters of their property in slaves, and in others occasioned them heavy expenses in tedious and unfounded law suits: To the end that a plain and easy mode may be pointed out by law for the recovery of freedom where it is unjustly and illegally denied, and that all such practices may in future be made useless and punished:

Procedure on the part of persons illegally detained in slavery, &c. and proceedings by courts or magistrates thereupon.

I. *BE it enacted*, That when any person shall conceive himself or herself illegally detained as a slave in the possession of another, it shall and may be lawful for such person to make complaint thereof either to a magistrate out of court, or to the court of the district, county, or corporation where he or she shall reside, and not elsewhere. When the complaint shall be made to a magistrate of such illegal detention, it shall be the duty of the said magistrate forthwith to issue his warrant, summoning the owner or possessor of such complainant, to appear before him or some other magistrate of the county, to answer the complaint so made, and upon his appearance shall compel him to give bond with security, equal at least to the full value of such complainant, conditioned that he shall suffer him or her to appear at the next court to be held for the district, county, or corporation wherein he or she resides, for the purpose of petitioning the said court to be allowed to sue therein in *forma pauperis*, for the recovery of his or her freedom; and if such master or holder shall fail or deny to give security as aforesaid, such magistrate shall order the complainant into the custody of the officer serving the warrant, to be kept by him safely at the expense of such master or holder, until the sitting of the first court that shall happen after such judgment by him given, and produce him or her before such court.

Petition for freedom to recite material facts; counsel to be appointed who shall report the case and his opinion before process shall issue.

II. WHEN a petition shall be offered to the court of any district, county, or corporation, by any person or persons so complaining, it shall state the material facts of the case, which being proved by affidavit or otherwise, to the satisfaction of such court, the petitioner shall obtain counsel, to be assigned by the said court, who, without fee or reward, shall prosecute the suit of such complainant: But before process shall issue upon the said petition, the counsel so appointed shall make an exact statement to the court, of the circumstances of the case, with his opinion thereupon, and unless from such circumstances and opinion, the court shall see manifest reason to deny their interference, they shall order their clerk to issue process against the owner, to appear and answer the complaint, and in the mean time, that such complainant shall be in custody of the sheriff, until the owner shall give bond with security, either in court, or with the clerk of the court, to have him or her forthcoming to answer the judgment of the court; in which case the complainant shall be returned into possession of the owner.

III. *AND be it further enacted*, That if any perſon or perſons, ſhall be found aiding, abetting, or maintaining any perſon in the proſecution of a ſuit upon a petition as aforeſaid, and ſuch perſon or perſons ſhall fail to eſtabliſh his or their claim to freedom, every perſon ſo found aiding, abetting, or maintaining, ſhall forfeit and pay to the owner of ſuch ſlave, or to the perſon who ſhall proſecute for the ſame, the ſum of one hundred dollars, for every perſon ſo complaining; to be recovered by action of debt or information in any court of record within this commonwealth. and moreover be liable to an action on the caſe for damages ariſing therefrom, to the party grieved thereby. Penalty on perſons aiding in the proſecution of ſuch petition in certain caſes.

IV. AND whereas it is doubted whether a widow who ſhall within one year from the death of her huſband, declare, in the manner preſcribed by law, that ſhe will not take or accept the proviſion made for her by her huſband's will, or any part thereof, and renounce all benefit which ſhe might claim by the ſame will, be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, and which by his will are directed to be emancipated and ſet free;—for removing ſuch doubts in future, and for a plain declaration of the law herein: *Be it enacted*, That in all ſuch caſes the widow ſhall be entitled to one third part of the ſlaves whereof her huſband died poſſeſſed, notwithſtanding they may be emancipated by his will: *Provided nevertheleſs*, that where part of the ſlaves only ſhall be emancipated, the widow's part ſhall be taken out of thoſe which are not ſet free, if there be enough to make one third part of the whole number whereof the huſband died poſſeſſed: And the widow in all ſuch caſes ſhall recover by preferring her bill in chancery againſt the executor or adminiſtrator, with the will annexed, one third part of ſuch ſlaves, which one third ſo to be allotted to her, ſhall be aſcertained by caſting lot: *Provided nevertheleſs*, that in all ſuch caſes where the perſonal eſtate of the huſband, after payment of debts and juſt expenſes, ſhall be ſufficient to compenſate the widow for the value of her third part of the ſlaves whereof her huſband died poſſeſſed, the executor or adminiſtrator, with the will annexed, ſhall pay to her ſuch ſum as ſhall be equivalent to her life eſtate in one third part of ſuch ſlaves; which ſum ſhall be aſcertained by perſons to be appointed for that purpoſe by the court, upon the application of the parties. Widow's dower ſaved in ſlaves, although emancipated by huſband's will. Proviſo. Mode of recovery of ſuch ſlaves. Proviſo.

V. *BE it alſo enacted*, That if any perſon ſhall make, forge, or counterfeit, or cauſe to be made, forged, or counterfeited, or willingly act, or aſſiſt in the making, forging, or counterfeiting any writing whatſoever, whereby any ſlave or ſervant of another, without the approbation or conſent of the owner, maſter, or miſtreſs of ſuch ſlave or ſervant ſhall be declared to be or intended to be emancipated, or ſhall be ſuffered to go at large, or paſs as a free perſon for any ſpace of time, every perſon ſo offending and thereof legally convicted, ſhall forfeit and pay the ſum of two hundred dollars, and ſuffer one year's impriſonment without bail or mainprize. Penalty on perſons convicted of forging, &c. or aiding, &c. in forging inſtruments of writing whereby ſlaves may paſs as free,

VI. THIS act ſhall commence and be in force, from and after the firſt day of January, one thouſand ſeven hundred and ninety-ſix. Commencement of this act.

CHAP. CXC.

An Act preſcribing a mode for making a Title to the Purchaſers of Lands heretofore ſold by Sheriffs for arrears of Taxes.

[Paſſed the 12th of December, 1795.]

I. BE *it enacted*, That in all ſales of lands heretofore made according to law, on account of arrearages of public taxes, by any ſheriff or other officer who may have departed this life before conveyance thereof to the purchaſer or purchaſers, and in which caſes, conveyances ought yet to be made, it ſhall and may be lawful for the ſheriff of the county, where the land lies, now in office, or his ſucceſſor, to convey the ſame to the purchaſer or purchaſers, or his or their heirs or aſſigns, in as full and ample manner as the ſheriff or other officer who made the ſale, might or ſhould have done, which conveyance ſhall recite the ſale and conſideration, and ſhall be effectual for paſſing to the purchaſer or purchaſers, or his or their heirs or aſſigns, all the eſtate and intereſt which the debtor or commonwealth had or might lawfully part with in the lands ſo ſold as aforeſaid. Title to the purchaſers of lands heretofore ſold for arrears of taxes, in caſe of the death of the officer who ſold the ſame, how made.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CXCI.

An Act to explain and amend the act prescribing a method of protesting inland bills of exchange, and allowing assignees of obligations to bring actions thereupon in their own names.

[Passed the 29th of December, 1795.]

Drafts of money by a resident of this, on any person in the United States, declared inland bills, subject in certain cases to damages.

I. BE *it enacted by the General Assembly*, That all bills of exchange, or drafts for money in the nature of bills of exchange, drawn by any person or persons residing in this state, on any person or persons in the United States, shall be considered in all cases whatsoever as inland bills of exchange; and if such bill of exchange or draft shall be protested for non-acceptance or non-payment, the drawer or indorser shall be subject to the payment of one *per centum* damages thereon, and the bill of exchange or draft shall carry an interest of five *per centum per annum* from the date of the protest, until the money therein drawn for, shall be fully satisfied and paid; any thing in any law to the contrary notwithstanding.

Suit maintainable in the name of an assignee of any bond, bill, or obligation whatever.

II. *AND be it further enacted*, That a suit may be maintained in the name of an assignee or assignees on any bond, bill, or obligation, whatever, in like manner as such suit may be maintained by the assignee or assignees of a bond, bill, or obligation for the payment of money or tobacco.

Commencement of this Act.

III. THIS act shall be in force and have effect from and after the first day of March next.

CHAP. CXCII.

An Act to amend the Act, intituled, An Act reducing into one, the several Acts concerning the Establishment, Jurisdiction, and Powers of District Courts.

[Passed the 25th of December, 1795.]

Preamble.

WHEREAS in the construction of the act, intituled, "*An act reducing into one, the several acts concerning the establishment, jurisdiction, and powers of the district courts*," it hath been held that the judges of the general court cannot attend, or hold a district court, except in such districts only, as they may be respectively allotted to, which construction hath been attended with some inconvenience:

Judges of the General Court may attend and hold a District Court in any District.

I. *BE it therefore enacted by the General Assembly*, That from and after the passing of this act, it shall be lawful for the judges of the general court, or either of them, notwithstanding any allotment heretofore made, or hereafter to be made among them, to attend and hold a district court pursuant to the directions of the said recited act, in any other district than those to which they shall be respectively allotted: *Provided*, the judges allotted to such district, shall fail to attend the same; any thing in the said act to the contrary, or seeming to the contrary notwithstanding: *And provided also*, that when such allotments shall be made, no judge shall exchange the district to which he is allotted.

Provisoes.

CHAP. CXCIII.

An Act to amend the Act to reduce into one, all the acts and parts of Acts relating to the appointment and duties of sheriffs.

[Passed the 24th of December, 1795.]

When all the justices of a county shall refuse the sheriffalty thereof the court to recommend two freeholders.

I. BE *it enacted by the General Assembly, and it is hereby enacted*, That when from any cause the whole number of the justices of the peace in commission for any county in this commonwealth, shall refuse to accept the office of high sheriff in any county; that then it shall be the duty of the county court forthwith to recommend to the Executive, two honest and substantial freeholders residing in such county, willing to accept the said office, one of whom shall be commissioned by the Governor, with the advice of Council, as high sheriff for the respective county, to serve in the said capacity for the term of one year from the date of the commission.

Person thus commissioned to have same emoluments and be subject to like penalties as other sheriffs.

II. *AND be it also enacted*, That any person so as above commissioned may be continued in office for the same length of time, that sheriffs may now be continued therein: and that he shall be subject to the same penalties and remedies, and be entitled to the same privileges and commissions, as sheriffs are now subject and entitled to by law.

III. AND where no perſon will accept the appointment of ſheriff in his county, the Governor, with advice of Council, may on recommendation from the county court, appoint any perſon willing to accept the ſame, reſiding within, and being a citizen of this commonwealth, who ſhall be commiſſioned, and be liable to the ſame fines and penalties as ſheriffs are now ſubject and entitled to by law. Where no perſon will accept ſheriffalty, executive to appoint.

IV. *AND be it further enacted*, That all ſheriffs now in office, as well as thoſe hereafter commiſſioned, ſhall at the end of the two years which they ſhall have acted, receive of the treaſurer of this commonwealth a commiſſion of two and a half *per cent.* over and above the commiſſion heretofore allowed by law, on the amount of the taxes paid into the treaſury: *Provided*, they ſhall have annually, faithfully, and punctually paid into the treaſury the full amount of the dues from the county for which they were ſheriff. Additional per centum allowed ſheriffs. Proviſo.

V. *AND be it further enacted*, That if any ſheriff who ſhall have punctually paid into the treaſury the full amount of all the public dues from his county as aforeſaid, ſhall die previous to the end of the ſecond year, for which he was appointed, that his legal repreſentatives ſhall be entitled to receive the aforeſaid additional commiſſions. Like emolument extended to his repreſentatives in caſe of death.

VI. *AND be it further enacted*, That the lands of deputy ſheriffs, and their ſecurities, ſhall be bound to the high ſheriffs in like manner as the lands of the high ſheriffs are bound to the commonwealth; and it ſhall be lawful for the general court, the diſtrict or county courts, to award a like execution againſt the ſaid lands, on the motion of ſuch high ſheriff, his executors or adminiſtrators to that which would have been iſſued on behalf of the commonwealth: *Provided*, that ten days previous notice ſhall be given to the ſaid deputy and his ſecurities, their heirs or deviſees, as the caſe may be. Lands of deputy ſheriffs and their ſecurities bound to high ſheriffs.

VII. *AND be it further enacted*, That whenſoever the lands of any deputy ſheriff would have been bound for any debt due to the high ſheriff, they ſhall be bound in like manner to the ſecurity or ſecurities, their executors or adminiſtrators, who may have paid the whole or a part of ſuch debt, and it ſhall be lawful for the general court or diſtrict courts to award a like execution againſt the ſaid lands on the motion of ſuch ſecurities, to that which would have been iſſued on behalf of the high ſheriff: *Provided*, that ten days previous notice ſhall be given to the principal, his heir, or deviſee, as the caſe may be. Lands of deputy ſheriffs bound to their ſecurities. Proviſo.

VIII. AND whereas in the twenty-eighth ſection of the act, intituled "*An act to reduce into one, all acts and parts of acts relating to the appointment and duties of ſheriffs*," which gives a remedy to the ſecurity or ſecurities of high ſheriffs, where they may have paid the whole or any part of a debt due to the commonwealth from his or their principal, it is not provided that the ſaid remedy be had by the executors or adminiſtrators of ſuch ſecurity: *Be it therefore enacted*, That the ſame remedy in the act aforeſaid given to the ſecurities of a high ſheriff, ſhall be, and is hereby given to their executors and adminiſtrators. Remedy given by law to ſecurities of high ſheriffs extended to executors, &c. of ſecurities.

IX. THIS act ſhall commence and be in force, from and after the firſt day of January, in the year of our Lord, one thouſand ſeven hundred and ninety-ſix. Commencement of this Act.

CHAP. CXCIV.

An Act, to amend an act, intituled, An Act reducing into one the ſeveral Acts to oblige veſſels coming from foreign parts to perform quarantine.

[Paſſed the 19th of December, 1795.]

WHEREAS by the exiſting laws of this commonwealth, to "oblige veſſels coming from foreign parts to perform quarantine," the Executive are not authoriſed to deſignate more than one place for that purpoſe, which has been found by experience to be attended with much inconvenience and delay: Preamble.

I. *BE it therefore enacted, by the General Aſſembly*, That in addition to the place pointed out by the Governor at the mouth of Elizabeth river, it ſhall be lawful for him, and he is hereby empowered, with the advice of council, to eſtabliſh ſome other place in the river Patowmac, as near the head of the tide water, as ſhall be conſidered convenient and ſafe, and at any other place or places along the ſea board of this commonwealth, as ſhall be deemed neceſſary and expedient; and that he ſhall cauſe to be erected at the public expenſe at all ſuch places ſo pointed out as proper for the performance of quarantine, ſufficient buildings for the ſafe keeping of the goods or merchandiſe which it Governor to decide on places ſuitable for performance of quarantine and cauſe houſe to be erected thereon for purpoſes herein mentioned.

may be neceſſary to land from on board any veſſel lying at anchor in obedience to the above recited act of the legiſlature, as well as for the accommodation of the perſons ſuperintending and performing quarantine: And he is hereby empowered to contract in behalf of the commonwealth for a ſufficient quantity of land at every place deſignated as above, for the aforeſaid purpoſe; and in caſe of any proprietors refuſing to ſell upon reaſonable terms the quantity required, the Governor, with the advice of Council, ſhall forthwith cauſe to be condemned and appropriated, by a writ of *ad quod damnum*, a quantity not exceeding two acres, the value whereof to be paid for out of the public treaſury.

Empowered alſo to contract for land neceſſary therefor.

II. AND whereas it is doubtful whether any ſuperintendant of quarantine, hath a right to enforce the laws for the performance thereof, until a ſpecific proclamation ſhall have iſſued from the Governor, which, under a negative conſtruction by cauſing delay, might hazard the introduction of a contagious diſtemper: *Be it further enacted*, That the ſuperintendant of quarantine for the time being for any port within this commonwealth, upon intelligence to be relied on, of a peſtilential diſeaſe prevailing in any place, between which and the port for which he is ſuperintendant, there may be occaſional intercourſe, ſhall have power with the conſent of the corporate or other local authority, to enforce without further delay towards veſſels or perſons coming from ſuch infected place, the laws, for the performance of quarantine, until the Executive ſhall have ſignified their aſſent or diſſent to the proceeding; and upon all ſuch occaſions he ſhall immediately tranſmit to the Governor the nature and extent of the intelligence which in his eſtimation juſtified the meaſure, in order that the ſenſe of the Executive may be had thereon as early as poſſible.

Superintendants may enforce the laws of quarantine in certain caſes, and forthwith inform Executive;

III. AND whereas no legal meaſures exiſt for preventing the propagation of peſtilential diſeaſes, when any ſuch ſhall have unhappily obtained a reception among us: *Be it therefore further enacted*, that if any place within this commonwealth, ſhall become infected with a malignant diſtemper, which ſhall be of a nature manifeſtly contagious, ſuch place ſhall be co-extenſively ſubject to the operation of the laws for the performance of quarantine with any foreign place.

Infected places within this commonwealth, ſubject as foreign places to laws of quarantine.

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

Commencement of this act.

CHAP. CXCV.

An Act eſtabliſhing Inſpections of Indian Meal within this Commonwealth.

[Paſſed the 17th of December, 1795.]

I. BE *it enacted by the General Aſſembly*, That the inſpectors of flour appointed in various places within this Commonwealth in conformity to an act, intituled, "*An act reducing into one the ſeveral acts for regulating the inſpections of flour and bread*," ſhall be, and they are hereby appointed inſpectors of Indian meal; and in all appointments hereafter to be made under the act aforeſaid, the inſpectors of flour ſhall alſo be appointed inſpectors of Indian meal. All ſifted Indian meal, and every barrel thereof brought to any of the places mentioned in the above recited act for exportation, ſhall be made by the miller or manufacturer thereof from corn well kiln dried, and be merchantable and of due fineneſs.

Inſpectors of flour to be appointed inſpectors of Indian meal.

II. EVERY miller or manufacturer of Indian meal, ſhall provide and keep a diſtinguiſhable brand mark, with which he ſhall brand every caſk of meal, and mark thereon the tare and nett weight, before the ſame ſhall be removed from the place where the ſame was manufactured, under the penalty of thirty-three cents for every caſk of meal which ſhall not be marked as aforeſaid: And every caſk or barrel of Indian meal which the inſpector ſhall judge to be well packed, kiln dried, and merchantable, according to the directions of this act, ſhall be branded in the quarter with theſe words "fine meal" and with the name of the place at which he is inſpector.

Miller to keep a brand mark, and mark on each caſk of meal nett weight, &c.

III. THE caſks or barrels in which Indian meal ſhall be packed, ſhall be made of the ſame materials and dimenſions as by the ſaid act is directed for barrels for flour and bread: And they ſhall in like manner be coopered, hooped and nailed. Every miller and manufacturer of Indian meal ſhall put into each barrel the full quantity of one hundred and ninety-ſix pounds of meal, and into every half barrel the full quantity of ninety-eight pounds of meal. And if any of them ſhall put a ſmaller quantity into any caſk, than is directed

Materials and dimenſions of, and quantity of meal to be put into, each barrel.

Penalty for putting in-

by this act, he shall forfeit for the deficiency of every pound under three, eight cents, and for the deficiency more than three seventeen cents. to any barrel a smaller quantity.

IV. FOR every barrel of Indian meal inspected agreeable to the directions of this act, the inspector shall have and receive as a compensation, two cents; but the owner or manufacturer shall have the same right of appeal from the judgment of the inspectors as is provided in the case of flour. Rate of inspection.

V. IT shall not be lawful for any person to export or lade on board of any ship or vessel for exportation out of this state, any cask of Indian meal which shall have been condemned by an inspector; or to export or lade on board of any ship or vessel for exportation, from any port or place within this state, any casks or barrels of Indian meal, not inspected as aforesaid, on pain of forfeiting and paying five dollars for every cask or barrel exported, or laden on board any ship or vessel for exportation, which may be recovered before a single magistrate, one half to the use of the informer, and the other half to the use of the commonwealth. Exportation of uninspected meal prohibited. Penalty on persons exporting such meal.

VI. THIS act shall commence and be in force, from and after the first day of February next. Commencement of this act.

CHAP. CXCVI.

An Act to amend the several Acts for regulating Pilots, and ascertaining their Fees.

[Passed the 22d of December, 1795.]

WHEREAS by the act, "*To reduce into one, the several acts for regulating Pilots, and ascertaining their Fees*," every master of a merchant vessel coming from sea, is obliged to receive the first pilot who offers below the Horse-Shoe, which by experience has been found not to effect the object of supplying vessels, arriving on our coasts, with pilots: Preamble.

I. *BE it therefore enacted*, That it shall be lawful for any pilot belonging to this commonwealth, who first meets a vessel at sea, to take charge of, and conduct her into Hampton road, York river, or Mobjack bay, and to receive the fees allowed by law for conducting vessels to the aforesaid places; from whence any pilot having a branch for the port she is destined to, may take charge of, and conduct her thereto. Pilot first meeting a vessel to conduct her to certain places.

II. *AND be it enacted*, That every pilot shall be allowed and paid one fourth in addition to the fees, allowed by the act, "*To reduce into one, the several acts for regulating pilots, and ascertaining their fees*:" *Provided always*, That coasting vessels shall not be obliged to take a pilot. Additional fees for pilotage. Proviso.

III. *AND be it further enacted*, That every pilot who meets a vessel, coming from any place infected with contagious diseases, and directed by proclamation of the Governor to perform a quarantine, shall, before he boards her, enquire whether any person or persons on board are sick, and if any should be so, that he direct the said vessel to follow his boat, which said vessel he is to lie by, and conduct to the nearest place for vessels to perform quarantine, and there bring her to anchor; but if no person on board such vessel be sick, he may conduct her to the port she is bound to: *Provided*, There be a superintendant of quarantine in such port, and proceed immediately to give notice to the said superintendant of the arrival; and the said pilot for his extra trouble therein, shall be allowed and paid by the master or owner of the vessel, five dollars over and above the pilotage he is entitled to. And if any pilot shall fail to give notice to the superintendant, it shall be considered a breach of good behaviour, and shall moreover forfeit his branch for twelve months: *Provided*, That nothing herein expressed shall affect the rate of pilotage as established by law, from the Capes to the different places up the Patowmac river, which shall remain as estimated in the law passed in the year one thousand seven hundred and ninety-two. Rules to be observed by pilots, in case of meeting vessels coming from places infected with contagious diseases.

IV. ALL and every act coming within the purview hereof, shall be, and the same is hereby repealed. Repealing clause.

V. THIS act shall commence and be in force, from and after the first day of February next. Commencement of this act.

CHAP. CXCVII.

An Act for the Inspection of Fish.

[Passed the 28th of December, 1795.]

Courts to appoint inspectors of fish; their duty and allowance; gauge of casks, &c.

I. BE *it enacted by the General Assembly*, That no fish shall be exported out of this commonwealth until the same shall be packed in barrels, under the regulations herein after expressed; and the justices of every county and corporation court within this commonwealth are hereby authorised and required, whenever application shall be made to any court for that purpose, and in the months of August and September annually to nominate and appoint in open court, one or more (not exceeding six in one county) fit and able person or persons residing in the same county, to inspect the package of all fish packed for sale or exportation in their respective counties. And every person so appointed, shall before he enters upon the execution of that office, make oath before the justices of his county court, carefully to view, inspect, and examine, when required, all fish packed for sale or exportation, and to the best of his skill and judgment not to pass or stamp any barrel of fish that is not good, clean, sound, merchantable, and of the guage by this act directed, and faithfully to discharge the duty of his office, without favor, affection, or partiality; and shall constantly attend upon notice at such time and place as the owner of any such commodity shall appoint to inspect the same within his county, but shall not inspect or stamp any fish imported from another state of the union, until the same shall be brought to some public landing; and shall provide a stamp or stamps with the first letter of his county, the letter V for Virginia, the first letter of his own christian name, and his whole surname at length to be stamped on each barrel or cask by him passed, for which he may demand and take for every barrel of fish by him stamped, six cents, to be paid down by the owner.

Penalty imposed on inspectors for neglect of duty, &c.

II. AND if any officer so appointed and sworn, shall neglect his duty, or stamp any such commodity contrary to this act, he shall forfeit and pay one dollar for every barrel of fish which shall be found not duly qualified, or of less weight or contents than this act requires, and also one dollar for every neglect of his duty, recoverable by the informer with costs before a justice of the peace of the county where such offence shall be committed.

Fish to be of one kind; and inspector not to pass any such, unless of good quality.

III. EVERY barrel of fish packed within this commonwealth for sale, in any town established in this state, or exportation, or imported here, shall be packed all of one kind, and in a barrel well seasoned, containing not less than thirty nor more than thirty-two gallons; and all barrels so packed shall be full, well nailed, and pegged, and the fish therein shall be well salted, sound and well seasoned; and no inspector shall pass or stamp any barrel of fish that does not appear to such inspector to be well salted and cured before the same is packed; and after the same has been inspected, found merchantable, and passed by the inspector or inspectors residing in the county where the same shall be packed or imported, every such barrel shall be by him or them stamped or branded as aforesaid, and a certificate thereof given to the owner.

Penalty on persons selling fish in casks of smaller gauge than directed by this act.

IV. AND if any person shall presume to sell or expose to sale, or barter any barrel of fish of less size or guage than that above mentioned in any town established in this state, he or she shall forfeit and pay to the informer two dollars for every such barrel of fish sold or exposed to sale, or barter in this commonwealth, recoverable with costs by the informer before any justice of the county or corporation where such offence shall be committed, although the penalty shall exceed five dollars; and every justice of the peace upon such complaint before him made, and due proof of such offence, shall and may by virtue of this act, give judgment for the whole penalty, and award execution thereupon; any law to the contrary thereof notwithstanding: *Provided nevertheless*, That from such judgment for more than five dollars, the party grieved may appeal to the next court to be held for the county wherein such complaint was made, the appellant entering into bond with sufficient security before the justice by whom the judgment shall be given, that he will prosecute his appeal with effect, and pay the same judgment and all costs awarded by the court, if the judgment shall be affirmed; and the justice of the peace taking such bond, shall return the same together with the whole record of his proceedings in the cause, to the same court to which such appeal shall be, which court shall and may receive, hear, and finally determine the same.

Proviso.

V. EVERY seller or exporter of fish packed in this commonwealth, and ſtamped or branded, shall make oath before a juſtice of the peace, at the time of the delivery of ſuch fish ſold or exported, that the ſeveral barrels by him then ſold or exported, are the ſame that were inſpected and paſſed, and do contain the full quantity, without embezzlement or alteration to his knowledge; and every perſon taking a falſe oath, and being lawfully convicted thereof, ſhall ſuffer the pains and penalties inflicted on perſons guilty of wilful and corrupt perjury, and moreover shall forfeit and pay the ſum of one hundred dollars, to be recovered by any perſon or perſons that will ſue for the ſame, to his or their own uſe.

Perſons ſelling or exporting fiſh, to identify the ſame on oath.

Penalties on conviction of having taken a falſe oath.

VI. AND if any ſuch fish be put to ſale or shipped off without having been approved by an inſpector, and the barrels in which they are contained have not the ſaid inſpector's ſtamp, mark, or brand upon them, or if any maſter of any ship or other veſſel, officer or mariner, shall receive on board any ſuch ship for exportation, the offender or offenders ſhall incur the penalty of two dollars for each barrel ſo shipped, to be recovered in any court of record in this commonwealth, by him or them who will ſue for the ſame; and moreover all fish laded or received on board for exportation as aforeſaid, shall be forfeited. And if any cooper, inſpector, or other perſon, shall ſhift any fish either on board any ship or veſſel, or on ſhore, after the ſame hath been ſo branded, ſtamped, or marked by the inſpector, and ſhip and export the ſame, and a new brand, ſtamp, or mark the barrel whereinto ſuch fish are ſhifted, all perſons acting, ordering or aſſiſting therein, and being thereof convicted, ſhall forfeit and pay a ſum not exceeding five dollars. And if any perſon other than the proper officer ſhall preſume to mark, ſtamp, or brand any barrel of fiſh with the ſtamping or branding inſtrument belonging to ſuch officer, or other inſtrument made in imitation thereof, ſuch perſon or perſons on conviction thereof, ſhall forfeit and pay the ſum of five dollars for each barrel ſo marked, ſtamped, or branded, to be recovered in the manner before mentioned.

Fines on mariners for receiving uninſpected fiſh on board their veſſels, &c.

VII. EVERY cooper, and the maſter or owner of every ſervant or ſlave, who ſhall ſet up barrels for fish, ſhall make the ſame in the following manner, to wit: Each barrel, of good, ſtrong, well ſeaſoned timber, clear of ſap, and not leſs than five eighths of an inch thick, tight and well hooped with twelve hoops at the leaſt.

Materials of the caſks; number of hoops to be put thereon, &c.

VIII. THE ſeveral fines and forfeitures impoſed by this act (except ſuch as are otherwiſe recoverable) shall, and may be recovered to the uſe of the informer, where the ſame shall not exceed five dollars, before any juſtice of the peace; and for any ſum above five dollars, and not exceeding twenty dollars, by petition in any county court; and for all ſums above twenty dollars, in any court of record within this commonwealth, by action of debt or information, with coſts of ſuit.

Fines, &c. impoſed by this act, how and for whoſe uſe recoverable.

IX. THIS act ſhall commence and be in force, from and after the firſt day of June next.

Commencement of this act.

CHAP. CXCVIII.

An Act to aſcertain the Salary of the Judge of the High Court of Chancery.

[Paſſed the 26th of December, 1795.]

I. BE *it enacted by the General Aſſembly*, That the ſalary of the judge of the high court of chancery, ſhall, and is hereby declared to be, after and at the rate of ſixteen hundred ſixty-ſix dollars, and ſixty-ſeven cents *per annum*, payable in the like manner and proportions, as the ſalary heretofore allowed to the chancellor has been paid.

Salary of the judge of the high court of chancery, & how payable.

II. THIS act ſhall commence in force and have effect on the firſt day of January next.

Commencement of this Act.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Tuesday*, the 8th day of *November*, in the Year of our Lord, 1796.

CHAP. CXCIX.

An Act to eſtabliſh Public Schools.

[Paſſed the 22nd of December, 1796.]

Preamble.

WHEREAS it appeareth that the great advantages, which civilized and poliſhed nations enjoy, beyond the ſavage and barbarous nations of the world, are principally derived from the invention and uſe of letters, by means whereof the knowledge and experience of paſt ages are recorded and tranſmitted, ſo that man, availing himſelf in ſucceſſion of the accumulated wiſdom and diſcoveries of his predeceſſors, is enabled more ſucceſsfully to purſue and improve not only thoſe acts, which contribute to the ſupport, convenience, and ornament of life, but thoſe alſo, which tend to illumine and enoble his underſtanding, and his nature.

AND whereas, upon a review of the hiſtory of mankind, it ſeemeth that however favorable republican government, founded on the principles of equal liberty, juſtice and order, may be to human happineſs, no real ſtability, or laſting permanency thereof can be rationally hoped for, if the minds of the citizens be not rendered liberal and humane, and be not fully impreſſed with the importance of thoſe principles from whence theſe bleſſings proceed: With a view therefore, to lay the firſt foundations of a ſyſtem of education, which may tend to produce thoſe deſirable purpoſes:

Aldermen to be elected for each county, in the manner and at the time of electing delegates.

I. *BE it enacted by the General Aſſembly*, That in every county within this commonwealth, there ſhall be choſen annually, by the electors qualified to vote for delegates, three of the moſt honeſt and able men of their county, to be called the aldermen of the county, and that the election of the ſaid aldermen ſhall be held at the ſame time and place, before the ſame perſons, and notified and conducted in the ſame manner as by law is directed for the annual election of delegates for the county.

Aldermen to be furniſhed with a certificate, and notified of their election.

II. THE perſon before whom ſuch election is holden, ſhall certify to the court of the ſaid county, the names of the aldermen choſen, in order that the ſame may be entered of record, and ſhall give notice of their election to the ſaid aldermen within ten days after ſuch election.

Aldermen to meet annually on the ſecond Monday in May, to conſider the expediency of carrying this act into execution within their reſpective counties, which ſhall be laid off into ſections.

III. THE ſaid aldermen, or any two of them, annually, on the ſecond Monday in May, if it be fair, and if not, then on the next fair day, excluding Sunday, ſhall meet at the court-houſe of their county, and ſhall then and there proceed to conſider the expediency of carrying the ſubſequent parts and proviſions of this preſent act into execution, within their counties reſpectively, having regard to the ſtate of the population within the ſame. And if it ſhall ſeem expedient to the ſaid aldermen in any year, to carry into effect the ſubſequent parts and proviſions of this act, the ſaid aldermen are hereby empowered and required to proceed to divide their ſaid county into ſections, regulating the ſize of the ſaid ſections, according to the beſt of their diſcretion, ſo as that they may contain a convenient number of children to make up a ſchool, and be of ſuch convenient ſize that all the children within each ſection may daily attend the ſchool to be eſtabliſhed therein, diſtinguiſhing each ſection by a particular name; which diviſion with the names of the ſeveral ſections ſhall be returned to the court of the county, and be entered of record, and ſhall remain unaltered, until the increaſe or decreaſe of inhabitants ſhall render an alteration neceſſary, in the opinion of any ſucceeding aldermen, and alſo in the opinion of the court of the county.

Houſeholders of each ſection to meet and determine the moſt proper place for the ſchool-houſe.

IV. THE houſeholders reſiding within every ſection, ſhall meet on the firſt Monday in September next, after the aldermen of their county ſhall have determined that it is expedient that the proviſions of this act ſhall be carried into execution within the ſame, at ſuch place within their ſection as the ſaid aldermen ſhall direct, notice thereof being previouſly given to them by ſuch perſon reſiding within the ſection, as the ſaid alderman ſhall require, who is hereby enjoined to obey ſuch requiſition, on pain of being puniſhed by amerce-

ment. The householders being so assembled, shall choose the most convenient place within their section, for building a school-house. If two or more places, having a greater number of votes than others, shall yet be equal between themselves, the aldermen, or such of them as are not of the same section, on information thereof, shall decide between them. The said aldermen shall forthwith proceed to have a school-house built at the said place, and shall see that the same be kept in repair, and when necessary, that it be rebuilt; but whenever they shall think it necessary that it be rebuilt, they shall give notice as before directed, to the householders of the section, to meet at the said school-house, on such day as they shall appoint, to determine by vote in the manner before directed, whether it shall be rebuilt at the same, or what other place in the section.

Proceedings in case two men have an equal vote, &c.

V. THE power and authority of the aldermen elected under this act, who shall first determine in each county respectively, that it is expedient to carry this act into execution, shall continue until the aldermen who may be elected at an ensuing election, shall have actually formed a meeting, and so on in every ensuing year; and if the place of any of the said aldermen shall become vacant by death, resignation, or removal out of the county during the period for which he or they may be elected, such vacancy or vacancies shall be supplied by other fit persons by the court of the county for the remainder of the said period.

Duration of the authority of the aldermen, & vacancies how supplied.

VI. AT every of these schools shall be taught reading, writing, and common arithmetic; and all the free children, male and female, resident within the respective sections, shall be entitled to receive tuition gratis, for the term of three years, and as much longer at their private expense, as their parents, guardians, or friends, shall think proper. The said aldermen shall from time to time appoint a teacher to each school, and shall remove him as they see cause. They or some one of them, shall visit every school once in every half year, at the least, examine the scholars, and superintend the conduct of the teacher in every thing relative to his school.

Learning, what shall be taught in the several schools.

VII. THE salary of the teacher with the expense of building and repairing a school-house in each section shall be defrayed by the inhabitants of each county in proportion to the amount of their public assessments and county levies, to be ascertained by the aldermen of each county respectively, and shall be collected by the sheriff of each county, in the same manner as other public taxes are collected, and paid to the aldermen of each county, at the time appointed for the payment of county levies by the sheriffs; and in case any sheriff shall fail to make payment, the aldermen of his county shall and may recover such assessment from him in the same manner as county creditors are authorised by law to recover from him.

Salary of tutors, and expense of erecting and repairing school-houses, how defrayed.

VIII. *AND be it also enacted*, That the mayor, aldermen and common council of the several boroughs and corporations, within this commonwealth, shall have power by a bye-law or regulation, to adopt and carry into effect within their respective coporations, the principles and provisions of this act, in such manner as to them may seem most expedient, distinct from the counties within which such corporation may be comprehended.

Corporate towns empowered to act distinct from the counties wherein they may be situated.

IX. *PROVIDED always, and be it further enacted*, That the court of each county, at which a majority of the acting magistrates thereof shall be present, shall first determine the year in which the first election of said aldermen shall be made, and until they so determine no such election shall be made. And the court of each county shall annually, until each election be made at their court in the month of March, take this subject into consideration and decide thereon.

Proviso as to the first election of aldermen.

X. THIS act shall commence and be in force, from and after the first day of January, in the year of our Lord, one thousand seven hundred and ninety-seven.

Commencement of this act.

CHAP. CC.

An Act to amend the Penal Laws of this Commonwealth.

[Passed December the 15th, 1796.]

I. BE *it enacted*, That no crime whatsoever committed by any free person against this commonwealth, (except murder of the first degree) shall be punished with death within the same,

Punishment by death for crimes committed by free persons, abolished.

Except for murder of the first degree, as herein defined.

II. AND WHEREAS, The several offences which are included under the general denomination of murder, differ so greatly from each other in the degree of their atrociousness, that it is unjust to involve them in the same punishment: *Be it further enacted*, That all murder which shall be perpetrated by means of poison, or by lying in wait, or by any other kind of wilful, deliberate, and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, or burglary, shall be deemed murder of the first degree; and all other kinds of murder shall be deemed murder of the second degree, and the jury before whom any person indicted for murder shall be tried, shall, if they find such person guilty thereof, ascertain in their verdict whether it be murder, in the first or second degree; but if such person shall be convicted by confession, the court shall proceed by examination of witnesses to determine the degree of the crime, and to give sentence accordingly.

Jury to ascertain degree of the murder in all cases.

Petit treason punishable as murder.

III. *AND be it further enacted*, That every person liable to be prosecuted for petit treason, shall in future be indicted, proceeded against and punished, as is directed in other kinds of murder.

High treason how punishable.

IV. EVERY person duly convicted of the crime of high treason, shall be sentenced to undergo a confinement in the jail and penitentiary house herein after mentioned, for a period not less than six, nor more than twelve years, and shall be kept therein at hard labour or in solitude, and shall in all things be treated and dealt with as is herein after directed. Every person duly convicted of the crime of arson, or as being an accessory thereto, shall be sentenced to undergo a similar confinement for a period not less than five, nor more than twelve years, under the same conditions as are herein after directed. Every person duly convicted of the crime of rape, or as being accessory thereto before the fact, shall be sentenced to undergo a similar confinement, for a period of time not less than ten years, nor more than twenty-one years, under the same conditions as are herein after directed. Every person duly convicted of the crime of murder in the second degree, shall be sentenced to undergo a similar confinement for a period not less than five years, nor more than eighteen years, under the same conditions as are herein after directed.

Arson, how punishable.

Rape, how punishable.

Murder in the second degree, how punishable.

Robbery or burglary, how punishable.

V. EVERY person convicted of robbery or burglary, or as accessory thereto before the fact, shall restore the thing robbed or taken, to the owner or owners thereof, or shall pay to him, her, or them, the full value thereof, and be sentenced to undergo a similar confinement, for a period not less than three, nor more than ten years, under the same conditions as are herein after directed.

Horse stealing, how punishable.

VI. EVERY person convicted of horse-stealing, or as accessory thereto before the fact, shall restore the horse, mare, or gelding stolen, to the owner or owners thereof, or shall pay to him, her, or them the full value thereof, and also undergo a similar confinement, for a period not less than two, nor more than seven years, under the same conditions as are herein after directed.

Larceny of the value of four dollars, how punishable.

Every person convicted of simple larceny to the value of four dollars and upwards, or as accessory thereto before the fact, shall restore the goods or chattels so stolen to the right owner or owners thereof, or shall pay to him, her, or them, the full value thereof, or so much thereof as shall not be restored; and moreover shall undergo a similar confinement, for a period not less than one, nor more than three years, under the same conditions as are herein after directed.

Larceny under the value of four dollars, how punishable.

VII. IF any person shall feloniously take, steal and carry away any goods or chattels under the value of four dollars, the same order and course of trial shall be had and observed as for other simple larcenies, and he, she, or they, being thereof legally convicted, shall be deemed guilty of petit larceny, and shall restore the goods and chattels so stolen, or pay the full value thereof to the owner or owners thereof, and be further sentenced to undergo a similar confinement, for a period not less than six months, nor more than one year, under the same conditions as are herein after expressed.

Robbery of obligations, bills obligatory, &c. how punishable.

VIII. ROBBERY or larceny of obligations or bonds, bills obligatory, bills of exchange, promissory notes for the payment of money, lottery tickets, paper bills of credit, certificates granted by or under the authority of this commonwealth, or of the United States, or any of them, shall be punished in the same manner as robbery or larceny of goods and chattels.

Forgery and counterfeiting, how punishable.

IX. EVERY person who shall be convicted of having falsely forged and counterfeited any gold or silver coin, which now is, or hereafter shall be passing or in circulation within this state, or of having falsely uttered, paid or tendered in payment, any such counterfeit and forged coin, knowing the same to be forged and counterfeit, or having aided, abetted, or commanded

the perpetration of either of the said crimes, or shall be concerned in printing, signing or passing any counterfeit notes of the banks of Alexandria or the United States, knowing them to be such, or altering any genuine notes of either of the said banks, shall be sentenced to undergo a confinement, in the jail and penitentiary house herein after mentioned, not less than four, nor more than fifteen years, and shall be kept, treated and dealt with in manner herein after directed, and shall also pay such fine as the court shall adjudge, not exceeding one thousand dollars.

Malicious maiming or disfiguring, how punishable.

X. WHOSOEVER on purpose and of malice aforethought, by lying in wait, shall unlawfully cut out or disable the tongue, put out an eye, slit the nose, cut off the nose, ear, or lip, or cut off or disable any limb or member of another, with intention in so doing, to maim or disfigure such person, or shall voluntarily, maliciously, and of purpose, pull or put out an eye while fighting or otherwise, every such offender, his or her aiders, abettors and counsellors, shall be sentenced to undergo a confinement in the said jail and penitentiary house, for any time not less than two, nor more than ten years, and shall be kept, treated and dealt with in manner herein after mentioned; and shall also pay a fine not exceeding one thousand dollars, three fourths whereof shall be for the use of the party grieved.

Voluntary manslaughter, how punishable.

XI. WHOSOEVER shall be convicted of any voluntary manslaughter, shall be sentenced to undergo an imprisonment, at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than two, nor more than ten years, and to give security for his or her good behaviour during life, or for any less time, according to the nature and enormity of the offence; and for the second offence, shall be sentenced to undergo an imprisonment at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than six, nor more than fourteen years.

Involuntary manslaughter, in consequence of an unlawful act, how proceeded against and punished.

XII. WHERESOEVER any person shall be charged with involuntary manslaughter, happening in consequence of an unlawful act, it shall and may be lawful for the attorney-general, or other person prosecuting the pleas of the commonwealth, with the leave of the court, to wave the felony, and to proceed against and charge such person with a misdemeanor, and to give in evidence any act or acts of manslaughter; and such person or persons, on conviction shall be fined or imprisoned as in cases of misdemeanor; or the said attorney-general, or other person prosecuting the pleas of the commonwealth, may charge both offences in the same indictment, in which case, the jury may acquit the party of one, and find him or her guilty of the other charge.

Benefit of clergy done away.

XIII. ALL claims to dispensation from punishment by benefit of clergy, shall be and are hereby forever abolished; and every person convicted of any felony heretofore deemed clergyable, shall undergo an imprisonment at hard labour and solitary confinement in the said jail and penitentiary house, for any time not less than six months, and not more than two years, and shall be treated and dealt with as is directed hereafter, except in those cases where some other specific penalty is prescribed by this act.

Murder of the first degree punishable by death.

XIV. EVERY person convicted of murder of the first degree, his or her aiders, abettors and counsellors, shall suffer death by hanging by the neck.

Periods of confinement in all cases determinable by a jury.

XV. THE jury before whom any offender may be tried, shall decide upon, and in their verdict ascertain the time within the respective periods prescribed, during which such offenders shall undergo confinement in the jail and penitentiary house herein after mentioned, according to the directions of this act.

Offences not punishable by this act, to be punished as heretofore.

XVI. EVERY other felony, misdemeanor or offence whatsoever, not provided for by this act, may and shall be punished as heretofore.

Executive to purchase land near the city of Richmond for the erection of the jail, &c.

XVII. THE executive of this commonwealth are hereby requested as soon as may be, to cause as much land in or near the city of Richmond, to be purchased for the use of the commonwealth, as will be sufficient for the building of a jail and penitentiary house, which shall be constructed of brick or stone, upon such plan, as will best prevent danger from fire, and sufficient to contain with convenience, two hundred convicts at least, with a yard sufficiently capacious adjoining thereto for the said convicts occasionally to walk about and labour in, which said yard shall be surrounded by walls of such height as without unnecessary exclusion of air, will be sufficient to prevent the escape of the prisoners.

Executive to cause cells to be constructed in the

XVIII. THE executive are hereby also requested to cause a suitable number of cells to be constructed in the yard of the said jail, each of which cells

yard of the jail.

shall be six feet in width, eight feet in length, and nine feet in height, and shall be constructed of brick or stone, upon such plan as will best prevent danger from fire, and the said cells shall be separated from the common yard, by walls of such height, as without unnecessary exclusion of air and light, will prevent all external communication, for the purpose of confining therein the offenders who may be sentenced to solitary confinement by virtue of this act.

Executive to draw from the treasury money to defray the expense of building the jail, &c.

XIX. AND for the purpose of defraying the expense of purchasing such land, and of erecting such jail, cells and walls, the governor by and with the advice of council, shall be and is hereby authorised from time to time to draw from the treasury, a sum not exceeding thirty thousand dollars, to be paid out of any monies which may be in the treasury unappropriated to other purposes, and shall from time to time cause to be laid before the General Assembly, an account of the expenditure of the same.

Criminals to be confined in the jail and cells.

XX. THE said jail and cells shall be appropriated to the purpose of confining such males and females as shall have been convicted of the offences above enumerated as punishable with imprisonment and labour, but the males and females are hereby required to be kept separate and apart from each other; and all the prisoners shall be subject to the visitation and superintendance of the inspectors herein after appointed.

Criminals to be conveyed by sheriffs or serjeants of corporations to the jail.

XXI. EVERY person convicted in any district court in this state, of any crime (except murder of the first degree) herein before specified, shall, as soon as possible after conviction, be safely removed and conveyed by the sheriff of the county or serjeant of the corporation in which the crime or offence shall have been committed, and at the expense of the commonwealth, to the said jail and penitentiary house, and therein be kept during the term of their confinement, in the manner and on the terms herein after mentioned. And every sheriff or serjeant who shall neglect to remove and safely deliver at the jail aforesaid such convict, shall forfeit and pay the sum of one hundred dollars, to be recovered in any court of record, and applied, one half to the use of the county or corporation where the offence was committed, the other to such person as shall sue for the same.

Penalty for failing to deliver such criminal.

The court to determine what portion of time criminals shall be confined in solitary cells.

Proviso as to inspectors of the jail.

XXII. EVERY person convicted of any of the crimes aforesaid, and who shall be confined in the jail and penitentiary house aforesaid, shall be placed and kept in the solitary cells thereof on low and coarse diet, for such part or portion of the term of his or her imprisonment as the court in their sentence shall direct and appoint: *Provided*, That it be not more than one half, nor less than one twelfth part thereof; and that the inspectors of the said jail shall have power to direct the infliction of the said solitary confinement, at such intervals and in such manner as they shall judge best.

Character of convicts to be reported to the inspectors of the jail.

And

The report to be recorded.

XXIII. AND whereas it is of importance that the nature of the offence, and the former conduct and character of the convicts should be known by the said inspectors, *Be it further enacted*, That whensoever any person shall be convicted of any crime which now is capital or a felony of death, the court before whom such conviction is had, shall before their adjournment to another term, make and cause to be transmitted to the said inspectors a report, or short account of the circumstances attending the crime committed by such convict, particularly such as tend to aggravate or extenuate the same, and also what character the said convict appeared on the trial to sustain, and whether he had at any time before been convicted of any felony or other infamous crime; which report the said inspectors shall cause to be entered in books or registers to be provided for that purpose.

Persons convicted a second time of an offence now punishable with death, shall be confined for life.

Persons sentenced to labour who escape or are pardoned and are guilty of an offence now a felony of death, how punishable.

XXIV. IF any person convicted of any crime, which now is capital, or a felony of death without benefit of clergy, shall commit any such offence a second time, and be thereof legally convicted; he or she shall be sentenced to undergo an imprisonment in the said jail and penitentiary house, at hard labour, during life, and shall be confined in the said solitary cells at such times and in such manner as the inspectors shall direct; and if any person sentenced to hard labour and solitary confinement by virtue of this act, shall escape or be pardoned, and after his or her escape or pardon shall be guilty of any such offence as now is capital, or felony of death without benefit of clergy, such person shall be sentenced to undergo an imprisonment for the term of twenty-five years, and shall be confined in the solitary cells aforesaid, at the discretion of the said inspectors.

Persons convicted of crimes before this act shall have been declared in force, may pray

XXV. IF any person after this act shall, by proclamation of the governor as herein after mentioned, be declared in force, be convicted of any crime, committed before the said day, he or she shall be sentenced to undergo such pains and punishment, as by the laws now in force, are prescribed and directed,

unleſs ſuch convict ſhall openly pray the court before whom ſuch conviction ſhall be had, that ſentence may be pronounced agreeably to the proviſions of this act, for the like offence; in which caſe the ſaid court ſhall comply with the ſaid prayer, and paſs ſuch ſentence on ſuch convict as they would have paſſed, had the ſaid offence been committed ſubſequent to the ſaid day. the benefit of this act, when declared in force.

XXVI. NO perſon indicted for any crime, the puniſhment whereof is altered by this act, ſhall loſe any peremptory challenge, to which he or ſhe would have been entitled, had this act not been paſſed; nor be liable to be tried in any other courts than thoſe in which they now are or may be tried for the ſame offences. Privileges of criminals in the courſe of their trial.

XXVII. IN order to prevent the introduction of contagious diſorders, every perſon who ſhall be ordered to hard labour in the ſaid jail, ſhall be ſeparately lodged, waſhed and cleaned; and ſhall continue in ſuch ſeparate lodging, until it ſhall be certified by ſome phyſician, that he or ſhe is fit to be received among the other priſoners, and the cloathes in which ſuch perſon ſhall then be cloathed, ſhall either be burnt, or at the diſcretion of two of the ſaid inſpectors, be baked, fumigated, or carefully laid by until the expiration of the term for which ſuch offender ſhall be ſentenced to hard labour, to be then returned to him or her. Preventative means of infection, in the penitentiary houſe.

XXVIII. ALL ſuch convicts ſhall, at the public expenſe, during the term of their confinement, be cloathed in habits of coarſe materials, uniform in colour and make, and diſtinguiſhing them from the good citizens of this commonwealth; and the males ſhall have their heads and beards cloſe ſhaven at leaſt once in every week, and all ſuch offenders ſhall, during the ſaid term, be ſuſtained upon bread, Indian meal, or other inferior food, at the diſcretion of the ſaid inſpectors, and ſhall be allowed two meals of coarſe meat in each week, and ſhall be kept, as far as may be conſiſtent with their ſex, age, health and ability, to labour of the hardeſt and moſt ſervile kind, in which the work is leaſt liable to be ſpoiled by ignorance, neglect or obſtinacy, and where the materials are not eaſily embezzled or deſtroyed; and if the work to be performed is of ſuch a nature as may require previous inſtruction, proper perſons for that purpoſe, to whom a ſuitable allowance ſhall be made, ſhall be provided by order of any two of the inſpectors hereafter named; during which labour the ſaid offenders ſhall be kept ſeparate and apart from each other, if the nature of their ſeveral employments will admit thereof, and where the nature of ſuch employment requires two or more to work together, the keeper of the ſaid jail, or one of his deputies, ſhall, if poſſible, be conſtantly preſent. Cloathing of the priſoners—their general treatment as to diet, labor, &c. Allowance to perſons inſtructing priſoners in work.

XXIX. SUCH offenders unleſs prevented by ill health, ſhall be employed in work every day in the year, except Sundays, and ſuch days when they ſhall be confined in the ſolitary cells; and the hours of work in each day, ſhall be as many as the ſeaſon of the year, with an interval of half an hour for breakfaſt, and an hour for dinner, will permit, but not exceeding eight hours in the months of November, December and January; nine hours in the months of February and October, and ten hours in the reſt of the year; and when ſuch hours of work are paſt, the working tools, implements and materials, or ſuch of them as will admit of daily removal, ſhall be removed to places proper for their ſafe cuſtody, until the hour of labour ſhall return. Priſoners—their hours of employment.

XXX. THE keeper of the ſaid jail ſhall from time to time, with the approbation of any two of the inſpectors herein after mentioned, provide a ſufficient quantity of ſtock and materials, working tools and implements for ſuch offenders, for the expenſe of which the ſaid inſpectors, or any two of them, ſhall be, and they are hereby authoriſed to draw orders, to be counterſigned by the auditor of public accounts, on the treaſurer of this commonwealth, if need ſhall be, ſpecifying in ſuch orders the quantity and nature of the materials, tools, or implements wanted, which order the ſaid treaſurer is hereby required to diſcharge out of any money which may be at the time in the treaſury: for which materials, tools and implements, when received, the ſaid keeper ſhall be accountable; and the ſaid keeper ſhall, with the approbation of any two of the ſaid inſpectors, have power to make contracts with any perſon whatever, for the cloathing, diet, and all other neceſſaries, for the maintenance and ſupport of ſuch convicts, and for the implements and materials of any kind of manufacture, trade or labour, in which ſuch convicts ſhall be employed, and for the ſale of ſuch goods, wares and merchandizes as ſhall be there wrought, and manufactured; and the ſaid keeper ſhall cauſe all accounts concerning the maintenance of ſuch convicts and other priſoners to be entered regularly in a book or books to be kept for that purpoſe, and ſhall alſo keep ſeparate accounts of Jailor to provide tools where withal to employ the priſoners. And with the approbation of two of the inſpectors may contract for the cloathing and diet of the priſoners, and for the ſale of manufactures by them wrought, &c. Of all which he ſhall keep accounts.

the ſtock and materials ſo wrought, manufactured, ſold and diſpoſed of, and the monies for which the ſame ſhall be ſold, and when ſold, and to whom, in books to be provided for thoſe purpoſes; all which books and accounts ſhall be at all times open for the examination of the ſaid inſpectors, and ſhall be regularly laid before them at their quarterly or other meetings, as herein after is directed, for their approbation and allowance.

Power given the inſpectors to detect frauds.

XXXI. IF the ſaid inſpectors at their quarterly or other meetings, ſhall ſuſpect any fraudulent or improper charges, or any omiſſion in any ſuch accounts, they may examine upon oath or affirmation the ſaid keeper or any of his deputies, ſervants or aſſiſtants, or any perſon of whom any neceſſaries, ſtock, materials or other things have been purchaſed for the uſe of the ſaid jail, or any perſons to whom any ſtock or materials wrought or manufactured therein have been ſold, or any of the offenders confined in ſuch jail, or any other perſon or perſons concerning any of the articles contained in ſuch accounts, or any omiſſion thereout, and in caſe any fraud ſhall appear in ſuch accounts, the particulars thereof ſhall be reported by the ſaid inſpectors to the mayor of the city of Richmond, for the purpoſes herein after mentioned.

Rewards to the induſtrious in certain caſes.

XXXII. IN order to encourage induſtry as an evidence of reformation, ſeparate accounts ſhall be opened in the ſaid books for all convicts ſentenced to hard labor for ſix months and upwards, in which ſuch convicts ſhall be charged with the expenſes of cloathing and ſubſiſtence, and ſuch proportionable part of the expenſes of the raw materials upon which they ſhall be employed, as the inſpectors, at their quarterly, or other meetings, ſhall think juſt, and ſhall be credited with the ſum or ſums from time to time received by reaſon of their labor, and if the ſame ſhall be found to exceed the ſaid expenſes, the ſaid exceſs ſhall be laid out in decent raiment for ſuch convicts at their diſcharge, or otherwiſe applied to their uſe and benefit, as the ſaid inſpectors ſhall upon ſuch occaſions direct; and if ſuch offender at the end or other determination of his term of confinement, ſhall labor under any acute or dangerous diſtemper, he ſhall not be diſcharged unleſs at his own requeſt, until he can be ſafely diſcharged.

Viſits or entrance into the priſon prohibited generally, except by licenſe.

XXXIII. NO perſon whatever, except the keeper, his deputies, ſervants, or aſſiſtants, the ſaid inſpectors, officers and miniſters of juſtice, miniſters of the goſpel, or perſons producing a written licenſe, ſigned by two of the ſaid inſpectors, ſhall be permitted to enter within the walls where ſuch offenders ſhall be confined: and the doors of all the lodging rooms and cells in the ſaid jail ſhall be locked, and all light therein extinguiſhed at the hour of nine, and one or more watchmen ſhall patrole the ſaid jail at leaſt twice in every hour from that time until the return of the time of labor in the morning of the next day.

Walls of the cells and apartments to be white waſhed at ſtated periods.

XXXIV. THE walls of the cells and apartments in the ſaid jail ſhall be whitewaſhed with lime and water at leaſt twice in every year, and the floors of the ſaid cells and apartments ſhall be waſhed once every week, or oftener, if the ſaid inſpectors ſhall ſo direct, by one or more of the ſaid priſoners in rotation, who at the diſcretion of the ſaid keeper, ſhall have an extra allowance of diet for ſo doing; and the ſaid priſoners ſhall be allowed to walk and air themſelves for ſuch ſtated time as their health may require, and the ſaid keeper ſhall permit; and if proper employment can be found, ſuch priſoners may alſo be permitted with the approbation of two of the ſaid inſpectors to work in the yard, provided ſuch airing and working in the yard be in the preſence or within the view of the ſaid keeper, or his deputies or aſſiſtants.

An infirmary directed at the extreme end of the weſt wing of the jail, and how regulated.

XXXV. ONE or more of the apartments in the ſecond ſtory of the ſaid jail, and at the extreme end of the weſt wing, ſhall be fitted up as an infirmary, and in caſe any ſuch offender being ſick, ſhall upon examination of a phyſician be found to require it, he or ſhe ſhall be removed to the infirmary, and his or her name ſhall be entered in a book to be kept for that purpoſe, and when ſuch phyſician ſhall report to the ſaid keeper that ſuch offender is in a proper condition to quit the infirmary and return to his or her employment, ſuch report ſhall be entered by the ſaid keeper in a book to be kept for that purpoſe, and the ſaid keeper ſhall order him or her back to his or her former labor, ſo far as the ſame ſhall be conſiſtent with his or her ſtate of health; and the mayor and aldermen of the city of Richmond ſhall from time to time appoint a phyſician to attend the ſaid jail.

Keeper of the ſaid jail may puniſh priſoners in certain caſes.

XXXVI. THE keeper of the ſaid jail ſhall have power to puniſh all ſuch priſoners guilty of aſſaults within the ſaid jail, when no dangerous wound or bruiſe is given, profane curſing and ſwearing, or indecent behaviour, idleneſs

or negligence in work, or wilful misfmanagement of it, or of disobedience to the orders or regulations herein after directed to be made, by confining such offenders in the solitary cells of the said jail, and by keeping them upon bread and water only for any term not exceeding two days; and if any such prisoner shall be guilty of any offence within the said jail which the said keeper is not hereby authorised to punish, or for which he shall think the said punishment is not sufficient, by reason of the enormity of the offence, he shall report the same to two of the said inspectors, who, if upon proper enquiry they shall think fit, shall certify the nature and circumstances of such offence, with the name of the offender to the mayor of the city of Richmond, and the mayor shall thereupon, order such offences to be punished by moderate whipping, or repeated whippings, not exceeding thirteen lashes each, or by close confinement in the said solitary cells, with bread and water only for sustenance, for any time not exceeding six days, or by all the said punishments.

Recourse to be had to other cases to the mayor of the city.

XXXVII. IT shall be lawful for the governor with the advice of council, to appoint a suitable person to be keeper of the said jail, who shall however be liable to be removed whenever occasion may require, in which case another shall, from time to time be appointed in like manner, who shall receive as a full compensation for his services, and in lieu of all fees and gratuities, by reason or under colour of the said office, so much as the governor with the advice of council, at the time such appointment shall be made, shall direct, to be paid in quarterly payments, by orders drawn on the treasury of this commonwealth by the auditor of public accounts, and also five per centum on the sales of all articles manufactured by the said criminals; and such keeper shall have power with the approbation of the governor and council, to appoint a suitable number of deputies and assistants, at such reasonable allowances as the governor with the advice of council, shall think just, which allowances shall be paid quarterly in like manner; and before any such jailor shall exercise any part of the said office, he shall give bond to the governor of the commonwealth, with two sufficient sureties, to be approved by the court of the city of Richmond, in the sum of two thousand dollars, upon condition that he, his deputies and assistants, shall well and faithfully perform the trusts and duties in them reposed; which said bond, being executed before, and certified by the said court, shall be recorded therein, and copies thereof, attested by the clerk of the said court, shall be legal evidence in all courts of law in any suit against such jailor or his deputies.

Keeper of the jail to be appointed and his salary fixed by the Executive, and liable to removal, &c.

Additional compensation to the keeper.

Keeper may appoint assistants, and shall enter into bond for the due discharge of his duty.

XXXVIII. IT shall be lawful for the said court of the city of Richmond at the first court after the time when the said jail shall be erected agreeably to the directions of this act, to appoint twelve inspectors, six of whom shall be in office for six months, and six for twelve months, and so during every succeeding six months, six inspectors shall be appointed by the said court, who shall be in office for twelve months; and if any person so appointed, not having a reasonable excuse, to be approved of by the said court, shall refuse to serve in the said office, he shall forfeit and pay the sum of thirty dollars; to be recovered by action of debt, the one half to the use of the person suing, the other half to be paid to the treasurer of this commonwealth; to be applied to the purposes herein before mentioned.

Court of the city of Richmond to appoint inspectors.

Penalty for refusal to act as inspector.

XXXIX. THE said inspectors, seven of whom shall be a quorum, shall meet once in three months in an apartment to be provided for that purpose in the said jail, and may be specially convened by the two acting inspectors when occasion shall require; and they shall at their first meeting appoint two of their members to be acting inspectors, who shall continue such for such time as shall be directed by the said inspectors, or a majority of them, when met together. And the acting inspectors shall attend the said jail at least once in each week, and shall examine into and inspect the management of the said jail and the conduct of the said keeper and his deputies, so far as respects the said offenders employed at hard labor by the directions of this act, and shall do and perform the several matters and things herein before directed by them to be performed.

Inspectors to meet once in three months and may be specially convened.

XL. THE board of inspectors at their quarterly or other meeting, shall make such other and further orders and regulations for the purpose of carrying this act into execution as shall be approved of by the executive; and such orders and regulations shall be hung up in at least six of the most conspicuous places in the said jail; and if the said keeper or any of his deputies or assistants shall obstruct or resist the said inspectors or any of them in the exercise of

Rules and orders to be hung up in different parts of the jail.

Penalty on keeper and his assistants for resisting an inspector's authority.

the powers and duties vested in them by this act, such person shall forfeit and pay the sum of sixty dollars, to be recovered as aforesaid, and shall moreover be liable to be removed in manner aforesaid from his respective office or employment in the said jail.

Penalty on keeper in case of escapes.

XLI. THE said keeper of the jail, his deputies and assistants, in case any of the said offenders shall escape from confinement without the knowledge or consent of the said keeper, his deputies or assistants, shall forfeit and pay the sum of thirty dollars, to be recovered and applied in manner aforesaid: *Provided*, that nothing in this act contained shall be deemed or taken to extend to escapes voluntarily suffered by the keeper of the said jail.

Proviso.

Punishment of criminals in case of escape.

XLII. IF any such offender sentenced to hard labor, shall escape, he or she shall on conviction thereof, suffer such additional confinement and hard labor, agreeably to the directions of this act, and shall also suffer such additional corporal punishment, not extending to life or limb, as the court in which such offender shall have been convicted, shall adjudge and direct.

Penalty for introducing into the jail spirituous or fermented liquors.

XLIII. IF the jailor or any other person, shall introduce into, or give away, barter, or sell within the said jail any spirituous or fermented liquors, except only such as the said keeper shall make use of in his own family, or such as may be required for any prisoner in a state of ill health, and for such purpose prescribed by an attending physician, and delivered into the hands of such physician or other person appointed to receive them, such person shall forfeit and pay the sum of twenty dollars, one moiety thereof to the use of the person suing, the other moiety to be paid to the said inspectors for the purposes in this act contained.

Repealing clause.

XLIV. ALL acts and parts of acts coming within the purview of this act, shall, on the operation of this act, be thereby repealed.

Commencement of this act.

XLV. SO much of this act as respects the purchase of land, and building thereon the above mentioned jail and cells, shall commence and be in force from the passing thereof. The other parts thereof shall remain suspended in their operation until the Governor by advice of council, shall issue his proclamation declaring the said jail to be in a situation fit to receive offenders, when the said other parts of this act shall commence and be in operation.

CHAP. CCI.

An Act to amend the act, intituled, "An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies."

[Passed the 20th of December, 1796.]

Additional fees to clerks of courts for certain services.

I. BE *it enacted by the General Assembly*, That in addition to the fees now allowed by law to the clerks of courts within this commonwealth, they may demand and receive the following fees for the services herein after mentioned:

WHEN any deed of feoffment, or bargain and sale, or other deed for conveying and settling lands and tenements only, or together with slaves and personal estate, shall be recorded for every separate and distinct tract, piece or parcel of land, other than the first therein contained, twenty five cents.

THE fees for recording deeds where the grantees reside not within this state, shall be secured to the clerk before he shall be obliged to enter the proof or acknowledgment of the same of record. And in all cases, persons instituting suits in the courts of this commonwealth, not resident within the state, requiring services of the clerk of any court, shall secure the payment of the fees for such services, before the said clerk shall be obliged to perform the same.

Non-residents to give security.

Recommendations and qualifications of militia officers to be recorded without fees.

II. *AND be it further enacted*, That it shall be considered as the duty of the clerks of the several counties within this commonwealth, to enter of record the recommendations of officers proper to fill vacancies in the militia, and qualify them without any fee for the same.

Repealing clause.

III. ALL and every act or acts coming within the purview of this act, shall be and are hereby repealed.

Commencement of this Act.

IV. THIS act shall commence in force, from the passing thereof.

CHAP. CCII.

An Act making provision for the re-payment of monies paid into the Treasury, in pursuance of an act "For sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties."

[Passed the 19th of December, 1796.]

Treasurer to grant certificates for the amount of payments into the treasury in discharge of British debts.

I. BE *it enacted by the General Assembly*, That the treasurer of this commonwealth for the time being, upon the application of any person or persons having title thereto, shall deliver to him or them a certificate for each sum of money paid into the treasury under an act, intituled, "*An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties*," according to the principle of an act, intituled, "*An act concerning monies paid into the public loan office in payment of British debts*," and such certificate shall express the value of the sum so paid, after the same shall have been reduced by the scale of depreciation established by one other act of the General Assembly, intituled, "*An act directing the mode of adjusting and settling the payment of certain debts and contracts, and for other purposes*," to be due, with interest thereon at the rate of six *per centum per annum*, from the respective days on which such payments were severally made.

Auditor to grant certificates for the amount of money deposited in the treasury for sequestered estates.

II. *BE it enacted*, That in all cases where estates have been sequestered under the act, intituled, "*An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties*," and not confiscated under the act, intituled, "*An act concerning escheats and forfeitures from British subjects*," and money shall have been paid into the loan office on account of the owner of such sequestered estate in pursuance of the said first recited act, it shall and may be lawful for the auditor to issue to the person on whose account such payment has been made, or to his or her representatives, a certificate or certificates for the value thereof, according to the scale of depreciation, with interest in like manner as is directed in cases where payments have been made into the loan office by British debtors, under the said first recited act.

CHAP. CCIII.

An Act to amend the act, intituled an act, reducing into one the several acts for regulating the inspection of Flour and Bread.

[Passed the 22d of December, 1796.]

Inspections of flour established at Milton, &c.

I. BE *it enacted by the General Assembly*, That at each of the following places, to wit: Milton, in the county of Albemarle, the mouths of Harman's creek and Cross creek, in the county of Ohio, one inspector of flour shall be appointed in the same manner and under the like regulations as are directed and prescribed by the act passed in the year one thousand seven hundred and ninety-two, intituled, "*An act reducing into one the several acts for regulating the inspection of flour and bread.*"

Mixt flour forfeited and sold by the inspector for the benefit of the state.

II. *AND be it further enacted*, That if any miller or other person manufacturing flour, shall mix therewith flour of any other grain than wheat, the whole of such mixed flour shall be condemned by the inspector, who shall cause the same to be sold for the benefit of the commonwealth, after having given notice of the time and place of such sale for three weeks successively in some public gazette. And the inspector shall be allowed to retain as a commission for his trouble therein, five *per centum* upon the money produced by the sale of such mixed flour. And it shall be the duty of the several inspectors within this commonwealth, to account with the auditor and pay into the public treasury half yearly, the money arising from the sale of such condemned flour.

Judgment of want of skill in an inspector in cases of mixed flour, how corrected.

III. *PROVIDED nevertheless*, That when any person shall think himself aggrieved by the judgment or want of skill in an inspector in condemning flour on account of such mixture, it shall be lawful for such person to apply to a justice of the peace, who shall, at the charge of the complainant, issue a warrant directed to three indifferent persons well skilled in the manufacture of flour, to view and examine the same; which said three persons having taken the same oath or affirmation as is by law directed to be taken by the several inspectors

of flour, ſhall carefully view and examine the ſame, and if they or any two of them ſhall paſs and declare the ſame to be merchantable, in ſuch caſe the inſpector ſhall eraſe out the word condemned, and put ſuch brand on the ſaid flour as they or any two of them ſhall direct, and ſhall repay to the complainant his coſts; but if on ſuch review the judgment of the inſpector ſhall be confirmed, in ſuch caſe the owner of the flour ſhall pay the coſt of ſuch review.

Inſpection at Pocahuntas diſcontinued.

IV. *BE it further enacted*, That ſo much of the above recited act as eſtabliſhes an inſpection of flour at Pocahuntas ſhall be and the ſame is hereby repealed.

Commencement of this act.

V. THIS act ſhall commence and be in force, from and after the firſt day of March next.

CHAP. CCIV.

An Act to amend the act, reducing into one, all the acts and parts of acts relating to the Appointment and Duties of Sheriffs.

[Paſſed the 23d of December, 1796.]

Repealing clauſe.

I. BE *it enacted*, That the fourth ſection of the act paſſed at the laſt ſeſſion of the General Aſſembly, intituled, "*An act to amend the act, to reduce into one, all the acts and parts of acts relating to the appointment and duties of ſheriffs*," ſhall be, and the ſame is hereby repealed.

Additional allowance to ſheriffs in certain caſes.

II. *BE it further enacted*, That all ſheriffs now in office or who ſhall hereafter come into office, and ſhall on or before the time appointed by law, pay into the treaſury the full amount of the public revenue due from the counties in which they now act, or hereafter may act as ſheriffs, ſhall at the time of making ſuch payments reſpectively, be entitled to an additional compenſation of two and an half *per centum* on the amount of the taxes by them accounted for and paid into the treaſury, over and above the commiſſion heretofore allowed by law in ſuch caſes.

Allowance to ſheriffs for the preceding year in like caſes.

III. *AND be it further enacted*, That all ſheriffs who have paid into the treaſury the full amount of the taxes due from their reſpective counties, for the year one thouſand ſeven hundred and ninety-five, on or before the time preſcribed by law, ſhall alſo receive in addition to the commiſſion heretofore allowed by law, a commiſſion of two and an half *per centum* upon the amount of the taxes by them ſo paid into the treaſury; and the auditor of public accounts is hereby directed to iſſue to the ſaid ſheriffs in all ſuch caſes, warrants on the treaſurer for the amount of all ſuch commiſſions to which they may be reſpectively entitled under this act; any law to the contrary or ſeeming to the contrary notwithſtanding.

Commencement of this act.

IV. THIS act ſhall be in force from and after the paſſing thereof.

CHAP. CCV.

An Act to alter the Time of the annual Meeting of the General Aſſembly.

[Paſſed the 24th of December, 1796.]

General Aſſembly, when holden.

BE *it enacted*, That the meeting of the General Aſſembly ſhall hereafter be on the firſt Monday in December, in every year; any law to the contrary thereof notwithſtanding.

CHAP. CCVI.

An Act to amend the act, intituled, "An act to amend and reduce into one, the ſeveral acts concerning Slaves, Free Negroes, and Mulattoes."

[Paſſed the 23d of December, 1796.]

Owners of land or reſidents within this ſtate may bring certain ſlaves from other ſtates.

I. BE *it enacted*, That it ſhall and may be lawful for any citizen of theſe United States, reſiding in or owning lands within this ſtate, who has carried or may carry any ſlave or ſlaves born within this ſtate, into any other ſtate, and who has not ſold or hired or ſhall not hereafter ſell or hire out ſuch ſlaves, to bring him, her, or them, back again into Virginia without incurring any penalty therefor, nor ſhall ſuch ſlave or ſlaves be entitled to freedom on that account.

PROVIDED always, That if any ſuch ſlave or ſlaves be entitled to freedom under the laws of that ſtate, to which he, ſhe or they may have been or ſhall hereafter be removed, ſuch right ſhall remain; any thing in this act notwithſtanding. Proviſo.

II. THIS act ſhall be in force from the paſſing thereof. Commencement of this act.

CHAP. CCVII.

An Act concerning the Inſpection of Tobacco.

[Paſſed the 26th of December, 1796.]

WHEREAS, the act, intituled, "*An act for reducing into one, the ſeveral acts of Aſſembly for the inſpection of tobacco*," hath in many parts been found defective, and it is neceſſary that the ſame ſhould be amended: Preamble.

I. *BE it enacted by the General Aſſembly*, That the courts of the ſeveral counties wherein public warehouſes for the inſpection of tobacco have been or may be eſtabliſhed, ſhall annually, in the months of Auguſt or September, appoint one or more commiſſioners, of capacity and integrity, whoſe duty it ſhall be to provide that proper conveniences and repairs be provided and made at the ſeveral warehouſes in their county; that proper ſcales and weights be provided, kept in repair, and examined and compared with the ſtandard weights of the county once in ſix months at leaſt; that they viſit in the ſame ſpace of time each warehouſe at leaſt once, and ſee that the tobacco therein is properly ſtored away and ſecured, and that the inſpectors in all things diligently diſcharge their duty; and if they ſhall diſcover in any inſpector any negligence or breach of his duty, they ſhall certify the ſame to the executive if it be of ſuch a nature as to remove ſuch inſpector from office; and in all other caſes, ſuch neglect or breach of duty ſhall be certified to the court which appointed ſuch inſpector, whereupon they ſhall proceed againſt him according to law: *Provided*, That to the warehouſes in the town of Peterſburg, one perſon ſhall be appointed by the court of each of the counties of Prince George, Dinwiddie, and Cheſterfield; that to the warehouſes in Richmond and Mancheſter, one perſon ſhall be appointed by the court of each of the counties of Henrico and Cheſterfield; and to the warehouſes in Fredericksburg and Falmouth, one perſon ſhall be appointed by the court of each of the counties of Spotſylvania and Stafford; and that the perſons ſo appointed ſhall proceed jointly in performing the duties required by this act. Courts of certain counties to appoint commiſſioners for the purpoſes herein mentioned. Duty of ſuch commiſſioners. Proviſo.

II. EACH commiſſioner appointed as aforeſaid, ſhall be allowed two dollars per day for every day he ſhall be employed in performing the duties required by this act, which ſervices ſhall be aſcertained by the court which appointed him, and by them certified to the auditor of public accounts, who ſhall iſſue a warrant on the treaſury for the ſame; the auditor ſhall in like manner iſſue warrants for expenſes incurred by ſuch commiſſioners or others acting under their directions in executing the ſervices herein required, after due proof that the ſame have been performed. Allowance of commiſſioners.

III. AND if any commiſſioner appointed by virtue of this act, ſhall fail to perform the duties thereby required, he ſhall, on motion to the court which appointed him, be diſplaced or fined by ſuch court, to the uſe of the commonwealth, in ſuch ſum as they ſhall think proper, recoverable in the ſame manner as fines againſt ſheriffs failing to pay money received on executions. Commiſſioner failing to diſcharge his duty, liable to fine or removal from office.

IV. IF any inſpector ſhall after the firſt day of October next, paſs any tobacco packed in hogſheads which exceed fifty-four inches in the length of the ſtave or thirty-four inches at the head within the crow, making reaſonable allowance for prizing, which allowance ſhall not exceed two inches above the guage in the prizing head, he ſhall for every ſuch offence, be fined five dollars, to be recovered and appropriated as other fines againſt inſpectors under the before recited act. Penalty on inſpectors paſſing tobacco in caſks over a certain ſize.

V. EVERY inſpector who ſhall re-iſſue or paſs away any tobacco note after the delivery of the tobacco for which the ſame was granted, ſhall ſuffer as a felon without the benefit of clergy. Inſpector re-iſſuing a tobacco note, ſhall ſuffer as a felon.

VI. *AND be it enacted*, That an additional allowance of twenty-five *per* cent. ſhall be made to each and every inſpector of tobacco throughout this commonwealth on the ſalaries heretofore allowed them by law, provided that the duties ariſing from the ſhipping of tobacco from the reſpective warehouſes ſhall be adequate to diſcharge the ſaid ſalaries. Salaries of Inſpectors increaſed.

of flour, shall carefully view and examine the same, and if they or any two of them shall pass and declare the same to be merchantable, in such case the inspector shall erase out the word condemned, and put such brand on the said flour as they or any two of them shall direct, and shall repay to the complainant his costs; but if on such review the judgment of the inspector shall be confirmed, in such case the owner of the flour shall pay the cost of such review.

Inspection at Pocahuntas discontinued.

IV. *BE it further enacted*, That so much of the above recited act as establishes an inspection of flour at Pocahuntas shall be and the same is hereby repealed.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the first day of March next.

CHAP. CCIV.

An Act to amend the act, reducing into one, all the acts and parts of acts relating to the Appointment and Duties of Sheriffs.

[Passed the 23d of December, 1796.]

Repealing clause.

I. BE *it enacted*, That the fourth section of the act passed at the last session of the General Assembly, intituled, "*An act to amend the act, to reduce into one, all the acts and parts of acts relating to the appointment and duties of sheriffs*," shall be, and the same is hereby repealed.

Additional allowance to sheriffs in certain cases.

II. *BE it further enacted*, That all sheriffs now in office or who shall hereafter come into office, and shall on or before the time appointed by law, pay into the treasury the full amount of the public revenue due from the counties in which they now act, or hereafter may act as sheriffs, shall at the time of making such payments respectively, be entitled to an additional compensation of two and an half *per centum* on the amount of the taxes by them accounted for and paid into the treasury, over and above the commission heretofore allowed by law in such cases.

Allowance to sheriffs for the preceding year in like cases.

III. "*AND be it further enacted*, That all sheriffs who have paid into the treasury the full amount of the taxes due from their respective counties, for the year one thousand seven hundred and ninety-five, on or before the time prescribed by law, shall also receive in addition to the commission heretofore allowed by law, a commission of two and an half *per centum* upon the amount of the taxes by them so paid into the treasury; and the auditor of public accounts is hereby directed to issue to the said sheriffs in all such cases, warrants on the treasurer for the amount of all such commissions to which they may be respectively entitled under this act; any law to the contrary or seeming to the contrary notwithstanding.

Commencement of this act.

IV. THIS act shall be in force from and after the passing thereof.

CHAP. CCV.

An Act to alter the Time of the annual Meeting of the General Assembly.

[Passed the 24th of December, 1796.]

General Assembly, when holden.

BE *it enacted*, That the meeting of the General Assembly shall hereafter be on the first Monday in December, in every year; any law to the contrary thereof notwithstanding.

CHAP. CCVI.

An Act to amend the act, intituled, "An act to amend and reduce into one, the several acts concerning Slaves, Free Negroes, and Mulattoes."

[Passed the 23d of December, 1796.]

Owners of land or residents within this state may bring certain slaves from other states.

I. BE *it enacted*, That it shall and may be lawful for any citizen of these United States, residing in or owning lands within this state, who has carried or may carry any slave or slaves born within this state, into any other state, and who has not sold or hired or shall not hereafter sell or hire out such slaves, to bring him, her, or them, back again into Virginia without incurring any penalty therefor, nor shall such slave or slaves be entitled to freedom on that account.

PROVIDED always, That if any ſuch ſlave or ſlaves be entitled to freedom under the laws of that ſtate, to which he, ſhe or they may have been or ſhall hereafter be removed, ſuch right ſhall remain; any thing in this act notwithſtanding. Proviſo.

II. THIS act ſhall be in force from the paſſing thereof. Commencement of this act.

CHAP. CCVII.

An Act concerning the Inſpection of Tobacco.

[Paſſed the 26th of December, 1796.]

WHEREAS, the act, intituled, "*An act for reducing into one, the ſeveral acts of Aſſembly for the inſpection of tobacco*," hath in many parts been found defective, and it is neceſſary that the ſame ſhould be amended: Preamble.

I. *BE it enacted by the General Aſſembly*, That the courts of the ſeveral counties wherein public warehouſes for the inſpection of tobacco have been or may be eſtabliſhed, ſhall annually, in the months of Auguſt or September, appoint one or more commiſſioners, of capacity and integrity, whoſe duty it ſhall be to provide that proper conveniences and repairs be provided and made at the ſeveral warehouſes in their county; that proper ſcales and weights be provided, kept in repair, and examined and compared with the ſtandard weights of the county once in ſix months at leaſt; that they viſit in the ſame ſpace of time each warehouſe at leaſt once, and ſee that the tobacco therein is properly ſtored away and ſecured, and that the inſpectors in all things diligently diſcharge their duty; and if they ſhall diſcover in any inſpector any negligence or breach of his duty, they ſhall certify the ſame to the executive if it be of ſuch a nature as to remove ſuch inſpector from office; and in all other caſes, ſuch neglect or breach of duty ſhall be certified to the court which appointed ſuch inſpector, whereupon they ſhall proceed againſt him according to law: *Provided*, That to the warehouſes in the town of Peterſburg, one perſon ſhall be appointed by the court of each of the counties of Prince George, Dinwiddie, and Cheſterfield; that to the warehouſes in Richmond and Manchester, one perſon ſhall be appointed by the court of each of the counties of Henrico and Cheſterfield; and to the warehouſes in Frederickſburg and Falmouth, one perſon ſhall be appointed by the court of each of the counties of Spotſylvania and Stafford; and that the perſons ſo appointed ſhall proceed jointly in performing the duties required by this act. Courts of certain counties to appoint commiſſioners for the purpoſes herein mentioned. Duty of ſuch commiſſioners. Proviſo.

II. EACH commiſſioner appointed as aforeſaid, ſhall be allowed two dollars per day for every day he ſhall be employed in performing the duties required by this act, which ſervices ſhall be aſcertained by the court which appointed him, and by them certified to the auditor of public accounts, who ſhall iſſue a warrant on the treaſury for the ſame; the auditor ſhall in like manner iſſue warrants for expenſes incurred by ſuch commiſſioners or others acting under their directions in executing the ſervices herein required, after due proof that the ſame have been performed. Allowance of commiſſioners.

III. AND if any commiſſioner appointed by virtue of this act, ſhall fail to perform the duties thereby required, he ſhall, on motion to the court which appointed him, be diſplaced or fined by ſuch court, to the uſe of the commonwealth, in ſuch ſum as they ſhall think proper, recoverable in the ſame manner as fines againſt ſheriffs failing to pay money received on executions. Commiſſioner failing to diſcharge his duty, liable to fine or removal from office.

IV. IF any inſpector ſhall after the firſt day of October next, paſs any tobacco packed in hogſheads which exceed fifty-four inches in the length of the ſtave or thirty-four inches at the head within the crow, making reaſonable allowance for prizing, which allowance ſhall not exceed two inches above the guage at the prizing head, he ſhall for every ſuch offence, be fined five dollars, to be recovered and appropriated as other fines againſt inſpectors under the before recited act. Penalty on inſpectors paſſing tobacco in caſks over a certain ſize.

V. EVERY inſpector who ſhall re-iſſue or paſs away any tobacco note after the delivery of the tobacco for which the ſame was granted, ſhall ſuffer as felon without the benefit of clergy. Inſpector re-iſſuing a tobacco note, ſhall ſuffer as a felon.

VI. *AND be it enacted*, That an additional allowance of twenty-five *per cent.* be made to each and every inſpector of tobacco throughout this commonwealth on the ſalaries heretofore allowed them by law, provided that the duties ariſing from the ſhipping of tobacco from the reſpective warehouſes ſhall be adequate to diſcharge the ſaid ſalaries. Salaries of Inſpectors increaſed.

Pickers, their allowance and the allowance to inspectors for nails.

VII. IN lieu of the allowance now made by law to pickers of tobacco, they shall be and are hereby allowed to demand and receive for every hogshead of tobacco by them opened, thirty three cents and one third of a cent; and every inspector shall be authorised to demand and receive in lieu of the allowance now made by law, seventeen cents for finding nails; which sums shall be paid and received in the same manner as the allowance already made for the same services.

Penalty on manufacturers of tobacco without giving bond. How recoverable.

Proviso.

VIII. IF any person shall presume to manufacture tobacco without giving bond as required by law, he shall for every such offence forfeit and pay to the use of the commonwealth one hundred dollars, to be recovered before the court of the county or corporation within which such offender may reside, by action of debt or information, wherein the defendant shall be ruled to bail: *Provided*, That nothing herein contained shall be construed to extend to any person manufacturing tobacco of his own make. Every inspector of tobacco is hereby authorised and empowered to inspect any tobacco manufactured in the county wherein the warehouse at which he is appointed shall stand, and if in his opinion such tobacco be good, clean, and merchantable, he shall pass the same, stamp and mark the cask wherein it is packed or prized, and grant a certificate that the same hath been inspected according to law. He shall inspect no tobacco for which the manufacturer thereof shall not produce a manifest, but is hereby authorised and directed to seize such tobacco wherever it may be found, dispose thereof and pay the money arising therefrom into the public treasury.

Inspector may inspect manufactured tobacco.

Manufacturer to produce a manifest.

Revival of the inspection at Deacon's Neck.

IX. AND whereas it is suggested that under the fifty-first section of the said recited act, the inspection of tobacco established at Deacon's-neck is discontinued: *Be it enacted*, That the said inspection shall be and is hereby revived and continued under the same regulations as inspections lawfully established.

Repealing clause. Proviso.

X. SO much of all acts or parts of acts as contravenes the operation of this act, shall be, and the same are hereby repealed. *Provided always*, That nothing in this act shall be construed to affect any rights, remedies, fines, forfeitures, penalties or amercements, which have accrued, been vested, or incurred prior to the commencement of this act.

Additional proviso.

XI. *AND provided also*, That the courts of the counties wherein any inspection of tobacco may be established, shall proceed to appoint the commissioners in this act mentioned, at the court holden for their respective counties in the months of January or February next.

Commencement of this act.

XII. THIS act shall be in force, from the first day of January next.

CHAP. CCVIII.

An Act concerning Corporations.

[Passed the 22d of December, 1796.]

Licenses to sell by vendue in corporate towns, how obtainable.

Proviso.

I. BE *it enacted by the General Assembly*, That from and after the passing of this act, the mayor, aldermen, and commonalty of the several corporate towns within this commonwealth and their successors, shall upon request of any person or persons desirous thereof, grant licenses to exercise in such town the trade or business of an auctioneer: *Provided*, that no such license shall be granted until the person or persons requesting the same, shall enter into bond with one or more sufficient sureties, payable to the mayor, aldermen, and commonalty of such corporate town and their successors, in such penalty and with such condition as by the bye-laws and ordinances of such corporate town shall be required. *And provided also*, That any license which may have been heretofore granted by the supervisor of this district, shall remain in full force during the term for which the same was granted. And every person or persons so licensed, shall have the same powers, and be subject to the same regulations and to the payment of the same sum as the vendue masters or auctioneers appointed, or to be appointed by the mayor, aldermen, and commonalty of the several corporate towns, are liable and subject to.

Further proviso.

The powers of magistrate of corporations enlarged.

II. *AND be it further enacted*, That the magistrates of any corporate town shall have the same power to examine privily, and take the acknowledgement of a *feme covert* to a conveyance and to certify the same, as is by law given to justices of peace of a county; and the court of hustings for each corporation within this commonwealth shall have the same power to admit to record a

thenticated copies of wills, proved according to the laws of any of the United States or of countries without the limits of the same, as is given by law to the county courts.

CHAP. CCIX.

An Act to amend the Act, intituled, An Act against Usury.

[Passed the 23d of November, 1796.]

Bonds, &c. for a greater rate of interest on money lent than herein allowed, void.

I. BE *it enacted*, That no person upon any contract entered into upon or after the first day of May next, shall take directly or indirectly, for loan of any money, wares or merchandize above the value of six dollars for the forbearance of one hundred dollars for a year, and after that rate for a greater or lesser sum or for a longer or shorter time; and all bonds, contracts, covenants, conveyances, or assurances thereafter to be made for payment or delivery of any money or goods so to be lent, on which a higher interest is reserved or taken than is hereby allowed, shall be utterly void.

Penalty for taking above the rate of six per cent.

II. IF any person shall by any way, or means of any corrupt bargain, loan, exchange, shift, covin, device, or deceit, take, accept or receive for the loan, or giving day of payment for money, wares, merchandize, or other commodity above the rate of six dollars for one hundred dollars for one year, every person so offending, shall forfeit double the value of the money, wares, merchandize, or commodity so lent, exchanged, or shifted, one moiety to the use of the commonwealth, and the other to the informer, to be recovered with costs.

Borrower may be relieved against the lender, by filing a bill in chancery.

III. ANY borrower of money or goods, may exhibit a bill in chancery against the lender, and compel him to discover upon oath, the money or thing really lent, and all bargains, contracts, or shifts which shall have passed between them relative to such loan or the re-payment thereof, and the interest and consideration for the same, and if thereupon it shall appear that more than lawful interest was reserved, the lender shall be obliged to accept his principal money without any interest or consideration, and pay costs, but shall be discharged of all other penalties of this act.

Repealing clause.

IV. SO much of the said recited act, as comes within the purview of this act, shall be and the same is hereby repealed.

Commencement of this act.

V. THIS act shall commence and be in force, upon the first day of May next.

CHAP. CCX.

An Act concerning the Special Court of Appeals.

[Passed the 18th of November, 1796.]

Preamble.

WHEREAS by the act, intituled, "*An act for reducing into one act, the several acts concerning the court of appeals, and special court of appeals,*" it is, among other things, provided and enacted, that whensoever a majority, or all the judges of the court of appeals, shall be interested in any case in the said recited act, mentioned, the same shall be entered of record in the said court, and the clerk thereof shall, thereupon, issue a summons to the judge of the high court of chancery, and judges of the general court, requiring them, if not disqualified to sit in such case, to attend at the capitol in the city of Richmond, or in case of adjournment of the court of appeals to any other place, at such other place, on the twentieth day of June, or November, then next following, to constitute a special court of appeals, for the purpose of hearing and finally deciding such suit; but no provision is made for those cases, wherein it may happen, that the day, so to be appointed, shall happen to fall out upon a Sunday, which may be attended with great inconvenience.

Special court of appeals summoned to meet on a day which falls out on a Sunday, shall be holden on the next day.

1. *BE it therefore enacted by the General Assembly*, That whenever a summons hath been, or shall be issued, pursuant to the said recited act for assembling a special court of appeals, if the day to which summons is, or shall be made returnable, shall happen to fall out of a Sunday, such court shall be holden on the next succeeding day, in like manner as if the same had been the day named in the summons, and shall then proceed to hear, determine, and finally decide all suits, process, matters and things, submitted to their cognizance and jurisdiction, as if the same had been the twentieth day of the month, to which such summons is, or shall be made returnable.

Power and authority of the executive to appoint inspectors in certain cases.

I. *BE it enacted*, That in any case where the executive shall have heretofore removed, or shall hereafter remove any inspectors of tobacco from office, and the additional persons nominated to them by the court of the county, or either of them, shall be unable to give security for the execution of their office, or shall, from information given to the executive, be conceived by them unfit to discharge the functions of the said office, or shall be absent from this commonwealth, the executive shall have full power and authority, to appoint any other two persons in the county where such warehouses are, to act as inspectors of the same, until the next nomination and appointment of inspectors by the court of the county; any thing in the said law to the contrary, notwithstanding.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXV.

An Act to amend an act, intituled, "An act to amend the act, for reducing into one, the several acts concerning the Land-Office, ascertaining the terms and manner of granting waste and unappropriated Lands, for Settling the Title and Bounds of Lands, directing the Mode of Processioning, and prescribing the Duty of Surveyors."

[Passed the 18th of November, 1796.]

Act herein mentioned, how construed.

I. BE *it enacted by the General Assembly*, That so much of the second section of an act, intituled, "*An act to amend the act, for reducing into one, the several acts concerning the land office, ascertaining the terms and manner of granting waste and unappropriated lands, settling the titles and bounds of lands, directing the mode of processioning, and prescribing the duty of Surveyors*," as relates to surveys or locations of land, shall be construed to extend only to such surveys or locations, as have been, or shall be made, after the last day of December, one thousand seven hundred and ninety-five. And the register is hereby directed to proceed on all surveys, made prior to the first day of January, one thousand seven hundred and ninety-six, agreeably to the laws in force at the time of such surveys made.

Further time allowed to appoint processioners.

II. *BE it further enacted*, That where it has happened that any court within this commonwealth, hath neglected to appoint processioners at the courts heretofore appointed by law, that they have the further time of six months from the passage of this law, to make such appointments; and that they be authorised to appoint processioners at any court, within the said period of six months.

Repealing clause.

III. *BE it further enacted*, That the third section of the law aforesaid, be, and the same is hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXVI.

An Act for lengthening the Terms of Session of certain District Courts.

[Passed the 21st of December, 1796.]

Preamble.

WHEREAS the time allowed for the sitting of the district courts, holden in the towns of Fredericksburg, Dumfries, and Winchester, is not sufficient for the transacting of the business in said courts:

Term of certain district courts herein mentioned may be extended, when holden, &c.

I. *BE it enacted*, That the said courts respectively, shall sit if business require it, fifteen days, Sundays exclusive, unless such sitting shall interfere with some other district court, in the same circuit; and to enable the judges to comply with this law, *Be it further enacted*, that the district court holden at Dumfries, shall be held on the eighteenth day of May and October in every year; that the district court holden at Winchester, shall be held on the fifteenth day of April, and on the twenty-ninth day of September, in every year; and the District Court holden at Morgan-Town, shall be held on the fifteenth day of May, and on the fifteenth day of September, in every year.

Provision in case day of meeting be Sunday.

II. AND if any of the said several days be Sunday, the court shall in that case respectively, begin on the succeeding day.

Brunswick and Petersburg district courts,

III. *AND be it enacted*, That the district court, holden at Brunswick courthouse, shall be held on the second day of May, and the second day of Octo-

ber in every year, instead of the twenty-ninth of April, and the twenty-ninth day of September, in every year; and if either of the said days be Sunday, the court shall in that case begin on the succeeding day. *And be it further enacted*, that the district court holden at Petersburg, shall sit if business require it, fifteen days, Sundays exclusive, unless such sitting shall interfere with some other district court in the same circuit.

when holden, &c.

CHAP. CCXVII.

An Act concerning County Levies, Poor Rates, and Clerks' Fees.

[Passed the 19th of December, 1796.]

I. BE *it enacted by the General Assembly*, That the duties required of the justices of the several county courts, by the seventh section of the act, "*Concerning tithables, directing the mode of laying and collecting the county levy*," shall be, and the same is hereby required to be done and performed, in the months of September or October, annually, or as soon after as may be, if no court should be held in either of those months, instead of the months of June or July, annually.

Duties required by this act to be done in September or October.

II. *AND be it further enacted*, That the sheriff or county collector, shall account with, and satisfy the county creditors, on or before the first day of October in every succeeding year, after the levy shall be laid, under the same regulations and penalties, as is prescribed by the ninth section of the act aforesaid, any thing in any law to the contrary notwithstanding.

When sheriffs shall account with county creditors.

III. *AND be it further enacted*, That the annual meeting of the overseers of the poor in every county, shall be held on the first Monday in September, instead of the first Monday in March, in every year; but if the number required by law, shall not assemble on that day, it shall be lawful for a sufficient number to meet and perform the business on any subsequent day in the said month; observing in all other respects the regulations required by "*An act providing for the poor, and declaring who shall be deemed vagrants.*"

Time of annual meeting of the overseers of the poor.

IV. *AND be it further enacted*, That every sheriff of every county, and every serjeant of every corporation, shall, on or before the first day of September, instead of the last day of May, in every year, account with the clerks of the respective district, high court of chancery, county and corporation courts, and the respective surveyors, for all fees put into his hands to collect, and pay the same, abating six *per centum* for collecting, pursuant to the "*Act reducing into one, the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees, and county levies.*"

When sheriffs shall account with clerks of courts.

V. *AND be it further enacted*, That the county levies, poor rates, the fees of the respective clerks of the district, high court of chancery, county and corporation courts, and the respective surveyors' fees, shall be distrainable the first day of May in every year, instead of the time prescribed by law.

Levies, &c. when distrainable.

VI. *AND be it further enacted*, That the judges of the several district courts, shall make such allowance from time to time, to the respective clerks of the district courts, as they shall think reasonable for future public services, not heretofore provided for by law, which allowances when made and audited, shall be paid by the treasurer, out of any public money in his hands, not otherwise appropriated.

District courts to make allowance to clerks for public services.

VII. THIS act shall commence and be in force from and after the first day of May next.

Commencement of this act.

CHAP. CCXVIII.

An Act to amend the Act, intituled, An Act to amend the act, to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy.

[Passed the 21st of December, 1796.]

I. BE *it enacted by the General Assembly*, That from and after the passing of this act, the several benefits and provisions contained in an act of the general assembly, passed on the third day of December, in the year one thousand seven hundred and ninety-four, intituled, "*An act to amend the act, to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible or stolen marriages; and for punishment*

Benefit of the act herein recited extended to the counties of Ohio and Brooke.

of the crime of bigamy," shall in like manner, be extended to the counties of Ohio, and Brooke.

Persons to be appointed with authority to solemnize the rites of marriage;

II. THE court of each of the said counties, shall appoint two persons, being actual residents of that county in which they shall be appointed, who shall have full power to celebrate the rites of marriage in that county wherein they respectively reside, and have been so appointed: and in case of the death or removal out of the county of any of those persons, it shall be lawful for the court of that county, wherein such person or persons reside, to appoint others in their stead, in like manner and with the like powers as those originally appointed.

And

shall qualify as in other cases.

III. ALL and every person or persons as aforesaid appointed for the said purpose, shall qualify themselves in like manner, shall discharge the like duties, be subject to the like penalty or penalties, for breach thereof, and shall be entitled to the like fees, as are directed and prescribed by the said recited act, in like manner as if the same were herein particularly recited and expressed.

Repealing clause.

IV. *AND be it further enacted*, That so much of the act passed on the twenty second day of December, one thousand seven hundred and ninety-two, intituled, "*An act to regulate the solemnization of marriages; prohibiting such as are incestuous or otherwise unlawful; to prevent forcible and stolen marriages; and for punishment of the crime of bigamy,*" as requires the clerks of county courts to certify to any justice of the peace, that bond is given for the obtaining of marriage license, and that the father or guardian hath consented to the issuing such license; and also so much of the said recited act, as requires a justice of the peace to sign such license, is hereby repealed. And it is hereby declared, that a license issued by the clerk of any county court, agreeably to the other requisites of the above recited act, shall be deemed sufficient authority for any duly authorised person to solemnize such intended marriage. And in case any clerk shall issue a license in any other manner, he shall be subject to the same penalty, to be recoverable in like manner, as directed under the above recited act.

Licenses to be issued by clerks.

Commencement of this act.

V. THIS act shall commence and be in force, from and after the first day of May, one thousand seven hundred and ninety-seven.

CHAP. CCXIX.

An Act to amend the Act concerning Public Roads.

[Passed the 10th of December, 1796.]

Surveyors of roads notified of their appointment by the sheriff.

I. BE *it enacted by the General Assembly*, That the clerk of every county court, shall within ten days after the appointment of any surveyor of a road, deliver a copy of the order of his appointment to the sheriff of the county, under the penalty of five dollars, and the sheriff shall before the next court to be held for the said county, after the receipt of such order, deliver a copy thereof to the surveyor, if to be found within the county, and return the original to the clerk's office, with an endorsement thereon, stating the truth of the case, under the penalty of five dollars, which in all cases shall be conclusive evidence of such surveyor having notice of his appointment.

Penalty on sheriff in case of failure.

Fines, &c. herein imposed, how recovered and appropriated.

II. THE fines and penalties hereby imposed, shall be recoverable and appropriated in like manner, as the fines and penalties imposed under the act, intituled, "*An act concerning Public Roads.*"

Repealing clause.

III. SO much of an act "*Concerning Public Roads,*" as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the first day of March next.

CHAP. CCXX.

An act to amend the act, intituled, an act, to empower the Freeholders of the several towns not incorporated, to supply the vacancies of the Trustees and Directors thereof.

[Passed the 27th of December, 1796.]

Vacancies in the office of trustee of a town by removal out of the

I. BE *it enacted*, That the office of any trustee or director of any town within this commonwealth, shall become vacant by the removal of such trustee or director out of the county, within which such town may be, and

that vacancies ſo happening, ſhall be ſupplied in like manner as is directed by the act, intituled, "An act to empower the freeholders of the ſeveral towns not incorporated, to ſupply the vacancies of the truſtees and directors thereof." county, how ſupplied.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this Act.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 4th Day of *December*, in the Year of our Lord, 1797. 1797.

CHAP. CCXXI.

An Act to amend the act, intituled, An Act to prevent Unlawful Gaming.

[Paſſed the 19th of January, 1798.]

I. BE *it enacted*, That all monies exhibited for the purpoſe of alluring perſons to bet againſt, at any game, and all monies actually ſtaked or betted whatſoever ſhall be liable to ſeizure by any magiſtrate or magiſtrates, or by any other perſon or perſons under a warrant from a magiſtrate, whereſoever the ſame may be found; and all ſuch monies ſo ſeized ſhall be accounted for and paid by the perſon or perſons making the ſeizure to the court of the county or corporation wherein the ſeizure ſhall be made, and applied by the court in aid of the levies and poor rates, deducting thereout fifty per centum upon all monies ſo ſeized, to be paid to the perſon or perſons making the ſaid ſeizure. Monies exhibited for the purpoſe herein mentioned, liable to ſeizure.

II. *AND be it further enacted*, That all billiard tables ſhall be liable to be ſeized and publicly burnt or deſtroyed, in the ſame mode as A B C, and other gaming tables may be deſtroyed under the eleventh ſection of the act, intituled, "An act reducing into one the ſeveral acts to prevent unlawful gaming." Billiard tables, &c. may be ſeized and burnt.

III. ANY perſon whatſoever who ſhall ſuffer the game of billiards, or any of the games played at the tables commonly called A B C, E O, or Faro bank, or any other gaming table, or bank of the ſame or the like kind, under any denomination whatever, to be played in his or her houſe, or in a houſe of which he or ſhe hath at the time the uſe or poſſeſſion, ſhall, for every ſuch offence, forfeit and pay the ſum of one hundred and fifty dollars, to be recovered in any court of record, by any perſon who will ſue for the ſame. Penalty for permitting games herein mentioned to be played.

IV. WHENEVER a judgment ſhall be obtained for any fine incurred by a breach of any law for preventing gaming, twenty dollars ſhall be taxed in the bill of coſts for a lawyer's fee. Fee to be taxed on judgments for breach of laws againſt gaming.

V. ANY perſon or perſons who ſhall oppoſe the ſeizure of any ſuch monies as above deſcribed, by any perſon or perſons ſo authoriſed to make it, ſhall be liable to a penalty of fifteen hundred dollars, to be recovered in any court of record, for the uſe of the commonwealth, and ſhall be moreover liable to the action of any party grieved by ſuch oppoſition; and any perſon or perſons who ſhall take or carry away any part of the ſaid money after the ſaid ſeizure ſhall be declared, ſhall be guilty of a miſdemeanor. Penalty for obſtructing ſeizures of monies under this act.

VI. *AND be it further enacted*, That the power of the executive to remit fines on judgments, ſhall not extend to fines ſuch as may accrue or be impoſed in the execution of this or any other act againſt gaming. No releaſe from fines incurred by gaming.

VII. *AND be it further enacted*, That the judges of the general and diſtrict courts, and the ſaid courts, ſhall be, and they are hereby empowered, to execute this, and all other laws for the purpoſe of ſuppreſſing gaming, as fully as the magiſtrates of the county courts, and the ſaid county courts, are empowered to execute the ſaid laws. Judges to execute this and other acts againſt gaming.

VIII. THE preſiding juſtice, as well in the diſtrict as in all the inferior courts of law in this commonwealth, ſhall conſtantly give this act in charge to the grand-juries of their courts, at the times when ſuch grand-juries ſhall be ſworn. This act to be given in charge to grand juries.

IX. THIS act ſhall commence and be in force, from and after the eighth day of March next. Commencement of this act.

CHAP. CCXXII.

An Act to amend the Act, intituled an Act to amend the Act, intituled, an act to reduce into one, the ſeveral acts concerning Slaves, Free Negroes, and Mulattoes.

[Paſſed the 25th of January, 1798.]

Preamble.

WHEREAS it is deemed eſſential to the public ſafety, that adequate proviſion ſhould be made by law for the puniſhment of ſuch free perſons as may be guilty of adviſing or conſpiring with any ſlave, to rebel or make inſurrection, or who ſhall be guilty of plotting with a ſlave the murder of any perſon whatſoever.

Free perſons convicted of exciting ſlaves to inſurrection or murder, ſhall ſuffer death:

I. *BE it enacted*, That every free perſon who ſhall hereafter adviſe or conſpire with a ſlave to rebel, or make inſurrection, or who ſhall adviſe or aſſiſt ſuch ſlave in the murder of any perſon whatſoever, ſhall be adjudged a felon, and upon conviction thereof by due courſe of law, ſhall ſuffer death without benefit of clergy.

Penalty on free perſons convicted of harbouring ſlaves.

II. *AND be it further enacted*, That all free perſons who ſhall be convicted before any magiſtrate of a county or corporation court, of harbouring or entertaining any ſlave without the conſent of his or her maſter, miſtreſs or overſeer, ſhall forfeit and pay immediately the ſum of ten dollars to the uſe of the informer, and in caſe of failure to make payment thereof, to be required by the magiſtrate before whom ſuch perſon ſhall be brought, to give bond and ſecurity for his or her appearance at the next court to be holden for the ſaid county or corporation, and in the mean time to be of good behaviour, or to ſtand committed until the ſame ſhall be performed. And in caſe the perſon ſo offending ſhall be a free negro or mulatto, and ſhall be unable to pay the ſaid ſum, then to receive ſuch corporal chaſtiſement, not exceeding thirty-nine laſhes, as the magiſtrate ſhall determine upon.

Penalty on free negroes, &c. guilty of like offence.

Members of ſocieties inſtituted for emancipating ſlaves, diſqualified as jurors in ſuits for their freedom.

Proviſo.

III. *AND be it further enacted*, That in all caſes wherein the property of a perſon held as a ſlave demanding freedom, ſhall come before a court for trial, no perſon who ſhall be proved to be a member of any ſociety inſtituted for the purpoſe of emancipating negroes from the poſſeſſion of their maſters, ſhall be admitted to ſerve as a juror in the trial of the ſaid cauſe: *Provided alſo*, That every petition or ſuit inſtituted for the emancipation of a perſon held as a ſlave, ſhall be tried at the next quarterly or diſtrict court ſucceeding ſuch petition or ſuit, unleſs it ſhall appear to the ſaid court, by good cauſe ſhewn, that the evidence neceſſary for the ſupport thereof could not be obtained.

How ſlaves convicted of felony and making eſcape, may, if re-taken, be identified; ſhall undergo the ſentence of the court, &c.

IV. AND whereas doubts have ariſen whether the powers of the magiſtrates of county and corporation courts, ſummoned as courts of oyer and terminer to decide upon the caſes of ſlaves charged with the commiſſion of felony, can extend to the identifying of ſuch ſlaves, who ſhall eſcape after condemnation and before the day of execution, and are re-taken, *Be it further enacted*, That in all ſuch caſes, it ſhall and may be lawful for the ſheriff to ſummon the magiſtrates of the county or corporation, for the purpoſe of identifying ſuch criminal, in like manner as the court was ſummoned for his or her trial, and upon ſuch identity being proven, to carry into effect the ſentence of the former court, by ordering ſuch farther day for the execution of the ſaid ſlave, as to them ſhall ſeem proper.

Free negroes or mulattoes giving copy of the regiſter of his freedom to a ſlave, ſhall be adjudged a felon.

V. AND whereas divers free negroes and mulattoes who have been regiſtered and numbered agreeably to the act of Aſſembly in that caſe made and provided, and who have obtained copies of the ſaid regiſters as by the ſaid act is required, have granted their ſaid copies to run-away ſlaves, who by virtue thereof have paſſed for free men, and have under ſanction thereof prevailed on maſters of veſſels to tranſport them out of this commonwealth: For remedy whereof, *Be it enacted*, That any free negro or mulatto who ſhall deliver to any ſlave the copy of the regiſter of his or her freedom, ſigned by the clerk of the court with whom the ſaid regiſter was made, on any pretext whatſoever, ſhall on conviction thereof, be adjudged a felon, and ſuffer accordingly.

Maſters or ſkippers of veſſels prohibited from carrying ſlaves out of the ſtate, without complying with the requiſites of this act.

VI. NO maſter or ſkipper of a veſſel, ſhall hereafter tranſport, or attempt to tranſport any negro or mulatto out of this commonwealth, on any pretext whatſoever, until he ſhall have produced the ſaid negro or mulatto before ſome magiſtrate of a county, adjoining to the river in which his veſſel ſhall lie, and ſhall have made out and lodged with the ſaid magiſtrate, a deſcription of the ſaid negro or mulatto, his or her name, probable age, and a ledged place of

birth, and a declaration of the place or port to which the ſaid maſter or ſkipper may be bound, and until he ſhall alſo have produced to the ſaid magiſtrate the certificate of freedom granted to the ſaid negro or mulatto by the clerk of the court in which he or ſhe was regiſtered, or the written direction of the owner of ſuch negro or mulatto, commanding or permitting ſuch maſter or ſkipper to carry him or her out of this commonwealth. And when the ſaid maſter or ſkipper ſhall ſo have done, it ſhall be the duty of the magiſtrate to grant him a written certificate thereof.

Penalty on ſuch maſter or ſkipper for violations of this law.

VII. EVERY maſter or ſkipper of a veſſel neglecting or refuſing to perform the requiſites by this act impoſed, ſhall forfeit and pay the ſum of five hundred dollars, for every negro or mulatto by him ſo carried or attempted to be carried out of this commonwealth, to be recovered by action of debt by any perſon who will ſue for the ſame, in which ſuit the ſaid maſter or ſkipper ſhall give good bail, and ſhall be moreover liable to the action of the owner of ſuch negro or mulatto, for the value of the negro or mulatto thus carried or attempted to be carried out of the commonwealth.

CHAP. CCXXIII.

An Act enlarging the Right of Appeals in certain Caſes.

[Paſſed the 23d of January, 1798.]

High court of chancery may grant appeals upon interlocutory decrees to court of appeals.

I. BE *it declared and enacted by the General Aſſembly*, That it ſhall be lawful for the high court of chancery, upon any interlocutory decree, where the right claimed ſhall have been affirmed or diſaffirmed, to grant, in its diſcretion, an appeal to the court of appeals, if the high court of chancery ſhall be of opinion, that the granting of ſuch appeal will contribute to expedition, the ſaving of expenſe, the furtherance of juſtice, or the convenience of parties, any law, cuſtom, uſage, or conſtruction to the contrary notwithſtanding.

Appeals from high court of chancery on docket of court of appeals, or granted therefrom at certain defined periods as depending therein—Niſi, &c.

II. *AND be it further enacted*, That all appeals from the high court of chancery, which were ſtanding on the docket of the court of apppeals on the tenth day of October, in the year one thouſand ſeven hundred and ninety-ſeven, or which were granted therefrom to the term of the court of appeals, commencing in October of the ſaid year, one thouſand ſeven hundred and ninety-ſeven, ſhall be conſidered as depending therein; unleſs for good cauſe ſhewn to the high court of chancery, at the March term thereof, in the year one thouſand ſeven hundred and ninety-eight: and according to the principles of its practice, any caſes in which appeals have been entered, and which may have been remitted to the high court of chancery, ſhall be there retained for further proceedings.

Execution may be awarded in vacation on interlocutory decrees.

III. *AND be it further enacted*, That upon any interlocutory decree of the high court of chancery, which ſhall not be appealed from, or upon any ſuch interlocutory decree which ſhall be appealed from and affirmed, ſuch proceſs of execution ſhall be awarded as to the high court of chancery, or the judge thereof in vacation, ſhall ſeem proper.

Writs of ne exeat may be diſcharged in vacation on notice to the party who obtained it.

IV. *AND be it further enacted*, That it ſhall be lawful for the judge of the high court of chancery to diſcharge writs of ne exeat in vacation, as in term time. *Provided*, that the party moving for the diſcharge of any ſuch writ, ſhall give to the party who obtained it, reaſonable notice of the time when ſuch motion will be made.

CHAP. CCXXIV.

An Act to amend the ſeveral acts of Aſſembly, concerning Eſcheators.

[Paſſed the 23d of January, 1798.]

Purchaſers of eſcheated property failing to pay the money—the eſcheator may re-ſell the ſame.

I. BE *it enacted by the General Aſſembly*, That whenever the eſcheator of any county ſhall proceed to make ſale of any land eſcheated according to the directions of an act, *concerning eſcheators*, and an act, *To amend an act, intitled, An act concerning eſcheators*, for ready money, and any perſon who may become a purchaſer thereof, ſhall not, on the day of ſale, pay to the eſcheator the whole ſum of money by him agreed to be given for ſuch land, or give ſome ſatisfactory aſſurance, that the ſame will be paid in a few days thereafter, the eſcheator ſhall immediately on ſuch failure, on the ſame day, again expoſe the

same to sale to the highest bidder, for ready money, and at such second sale, the person failing to make payment at the first sale as aforesaid, shall not be admitted or regarded by the escheator as a bidder.

Escheator may sell property on credit—taking a deed of trust, bond, &c.

II. AND whereas doubts have arisen, whether by either of the said recited acts the escheator is authorised to sell the land escheated upon credit, for any time whatever, although in his opinion the same would enhance the value thereof: *Be it further enacted*, That when in the opinion of the escheator of any county, the sale of any escheated land upon credit will greatly enhance the price thereof, he may proceed to sell the same upon such credit as he may think reasonable, not exceeding two years, taking of the purchaser a deed of trust in behalf of the commonwealth, for the lands so purchased, and a bond with sufficient security, bearing interest, to be approved by him, payable to the governor or chief magistrate of this commonwealth, for the time being, and his successors. And the escheator shall, immediately after taking such deed and bond, certify to the register of the land-office, the name of the purchaser, and the price by him agreed to be given for such land, and that a deed of trust for the lands so purchased and a bond, with sufficient security, to secure the payment of the purchase money, hath been given by such purchaser; whereupon the register of the land office shall proceed to have a grant executed to such purchaser, in the manner directed by the first recited act.

Shall certify the same to the register.

Such deed of trust to be recorded and a copy thereof and of the bond to be transmitted to the auditor—duty of escheator if the bond is not discharged.

III. AND the escheator shall as soon as possible, have the said deed recorded in the court of the county or corporation wherein the lands lie; and shall transmit to the auditor the said bond and a copy of the deed, to be lodged in his office, and if the purchaser shall fail to pay the purchase money and interest in due time, according to the tenor of the said deed and bond, the said escheator is hereby required forthwith to proceed to sell the lands so conveyed in trust, (having first given four weeks notice of the time and place of such sale, in some public gazette) for ready money, and out of the proceeds of such sale, shall pay into the treasury, the principal money and interest due to the commonwealth, and all costs and expenses incurred in effecting such sale, and the surplus, if any, he shall pay to the original purchaser.

Escheator shall make return of his proceedings to the auditor—commissions allowed him, &c.

Duty of auditor if sale made under the trust shall not produce the sum due.

IV. AND the escheator is hereby required, as soon as may be, to make and return to the auditor, an account of all his proceedings in the sale, and to pay into the treasury the amount of the sale, deducting thereout for his trouble the same commissions as are allowed to sheriffs on sales made under executions; and if the proceeds arising from such sale shall not be sufficient to pay the principal, interest, and expenses of sale, then it shall and may be lawful for the auditor, having given ten days notice to the obligors in the bond, upon motion made in the general court, (which court is hereby authorised and required to render judgment thereon, due notice being proved) to obtain judgment against the said obligors, or such of them as shall have had notice of such motion, for the balance which shall remain unpaid out of the proceeds of the sale of the land conveyed in trust, and all costs attending such motion, upon which judgment, execution shall be issued and levied according to the forms of law in ordinary cases of judgment.

Escheators neglecting to account with public, subject to like penalties as sheriffs.

V. AND if the escheator shall fail to pay the money into the treasury which he shall receive, upon making sale of any tract of land which shall have escheated to the commonwealth as aforesaid, within one month after such sale, then it shall be lawful for the auditor to proceed to obtain judgment against him for the like forfeitures, penalties and fines, and in the same manner as is allowed in the case of coroners and sheriffs failing to pay public dues.

Effect of this upon recited acts.

VI. THIS act shall not be construed to repeal any part or parts of the aforesaid acts, other than such as are rendered nugatory by the express directions of this act.

Commencement of this act.

VII. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXV.

An Act to amend the several acts for regulating the Inspection of Flour and Bread.

[Passed the 22d of January, 1798.]

Inspectors of bread to be appointed,

I. BE *it enacted by the General Assembly*, That the courts of the several counties wherein inspections of flour are established, shall, at their

courts to be held in the months of September or October in every year, nominate and appoint at such places, from whence bread shall be exported, a proper person as an inspector thereof.

Manufacturers of flour shall brand the barrel No. 2.

II. IT shall be the duty of every person owning or attending a mill for the manufacture of flour, to brand the barrel with the No. 2.

Repealing part of act herein recited.

III. *AND be it further enacted*, That so much of the seventh section of the act passed in the year one thousand seven hundred and ninety-two, intituled, *An act reducing into one, the several acts for regulating the Inspection of Flour and Bread*, as imposes a fine on millers and bolters for packing in each barrel and half barrel, a less quantity of flour than is by law directed, shall be so changed, as to impose the said fine on the person or persons offering the flour for inspection. *Provided however*, That such person or persons may by warrant, petition, or suit, as the case may require, recover of the miller or bolter, the amount of the fine so paid by him or them.

Proviso.

Inspectors informing of breach of any inspection law shall have no part of fine incurred.

IV. ALL the acts and parts of acts relating to the inspection of flour and bread, imposing any fine, a part whereof shall be to the use of the informer, shall be so changed, as that no part of such fine shall go to the informer, provided he shall be an inspector.

To appoint deputies and publish the quantity of flour inspected by them quarterly.

V. THE several inspectors of flour and bread shall appoint deputies, who shall be approved of by the courts of their respective counties, if they shall think them qualified for such appointments. And it shall be the duty of the inspectors of flour and bread to publish quarterly, a list of the quantities and qualities thereof inspected by them.

Inspector to be appointed in King & Queen county.

VI. *AND be it further enacted*, That at the place known by the name of Madison's mill, in the county of King and Queen, an inspector of flour shall be appointed in the same manner and under the like regulations, as are directed and prescribed by the before recited act.

Repealing clause.

VII. AND all and every act and acts, clauses and parts of acts coming within the purview and meaning of this act, shall be and are hereby repealed.

CHAP. CCXXVI.

An Act to amend the act, intituled, An act to reduce into one the several acts, concerning the County and other Inferior Courts of this Commonwealth.

[Passed the 20th of January, 1798.]

Process against defendants not resident in the county wherein a suit in chancery may originate, may be directed to any other county, &c.

I. BE *it enacted by the General Assembly*, That in all suits hereafter instituted on the chancery side of a county or corporation court within this commonwealth, it shall and may be lawful for the clerk thereof, in all cases where there shall be more than one defendant in such suit, to issue process against such of the defendants as do not reside within the said county or corporation, directed to the sheriff or serjeant of any county or corporation within this commonwealth, upon whose return, the same proceedings shall take place, as if the process had been served by the proper officer of such county or corporation court.

Jurisdiction in chancery causes extended to monthly courts.

II. *AND be it further enacted*, That the several county and corporation courts at their quarterly and monthly sessions shall have concurrent jurisdiction in the trial of all chancery causes therein depending; any law to the contrary notwithstanding.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXXVII.

An Act to amend the act providing for the Poor, and declaring who shall be deemed Vagrants.

[Passed the 23d of January, 1798.]

Persons to superintend or supply vacancies in office of overseers of the

I. BE *it enacted by the General Assembly*, That whensoever any county or corporation shall neglect or fail to appoint persons, at the time prescribed by law, to superintend the elections of overseers of the poor, every

poor may be appointed at any court.

court where such failure may happen, shall be, and it is hereby empowered and required to make such appointment at any subsequent court, or to fill the vacancy in the office of an overseer or overseers of the poor at any court after the same shall happen.

Commencement of this act.

II. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXXVIII.

An Act concerning the Title of the Commonwealth to Lands which have been settled more than Thirty Years.

[Passed the 24th of January, 1798.]

Preamble.

WHEREAS it hath been represented to the General Assembly, that many persons possessing lands in this commonwealth, have been vexed and harrassed by the location of warrants on the same, as if they were still waste and unappropriated, although the present possessors thereof, and those under whom they claim, have held the said lands in quiet and peaceable enjoyment, and have paid quit rents therefor under the former government, and all taxes imposed under the authority of the commonwealth, for more than thirty years: And whereas it is unreasonable to presume, that persons who have been thus long possessed under the circumstances aforesaid, should not have obtained patents for the same, especially as it has happened from the war and other causes, that patents actually granted have been lost or destroyed, and repeated alienations have been made of the said lands:

Entries or locations heretofore made, not affected by this act.

I. *BE it therefore enacted*, That no entry or location on any lands in this commonwealth, which have been settled thirty years prior to the date of such entry or location, and upon which quit-rents or taxes can be proved to have been paid at any time within the said thirty years, shall be deemed valid; and any title which the commonwealth may be supposed to have thereto, is hereby relinquished.

Cases wherein this act shall not apply

II. THIS act shall not extend to any case of an entry or location regularly made according to law, previous to the passing of this act. *Provided always*; That nothing herein contained shall be so construed as to affect the right of this commonwealth in or to any lands or tenements, the right whereof may or shall have become forfeited by non-payment of the commonwealth's taxes; nor shall any thing herein contained be so construed as to alter or change the construction of the act for limitation of real actions.

CHAP. CCXXIX.

An Act declaring the Gold and Silver Coins, of certain Foreign Countries, to be a legal Tender within this Commonwealth.

[Passed the 19th, of January, 1798.]

Gold and silver coins of France, Portugal, Spain, and Great Britain, declared a legal tender in this commonwealth, at rates therein mentioned.

I. BE *it enacted by the General Assembly*, That the gold and silver coins of the foreign countries hereafter mentioned, shall pass current within this commonwealth, and be a legal tender for the payment of all debts, contracts, and demands whatsoever therein, at the several and respective rates following, as established by the present law of Congress, and not otherwise, viz: The gold coins of Great Britain and Portugal, of their present standard, at the rate of one hundred cents for every twenty-seven grains of the actual weight thereof; the gold coins of France and Spain, and the dominions of Spain, of their present standard, at the rate of one hundred cents for every twenty-seven grains, and two fifths of a grain of the actual weight thereof; Spanish milled dollars at the rate of one hundred cents for each dollar, the actual weight whereof shall not be less than seventeen penny weights and seven grains, and in proportion for the parts of a dollar; crowns of France at the rate of one hundred and ten cents for each crown, the actual weight whereof shall not be less than eighteen penny weights and seventeen grains, and in proportion for the parts of a crown.

Commencement of this act

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXX.

An Act authorising Creditors of deceased Persons, leaving Lands which escheat to the Commonwealth, to recover their Debts out of the Proceeds thereof.

[Passed the 29th of December, 1797.]

Creditors of deceased persons, leaving lands which escheat to the state, and no other property, may recover their debts out of proceeds thereof.

I. BE *it enacted by the General Assembly*, That whensoever any person dies seized of lands, which shall be escheated for the benefit of the commonwealth, being indebted, and not having slaves or other personal estate sufficient to pay such debts, it shall and may be lawful for the general court, on the petition of his or her creditor or creditors, to give judgment for such debts or so much thereof as shall be by legal testimony established, to be paid out of the proceeds of such escheated lands, until the same shall be exhausted; to all which petitions the treasurer, for the time being, shall be made defendant: *Provided*, That the said slaves and other personal estate shall be previously applied in the payment of the debts of the said decedent; and that every such creditor shall annex an affidavit to the said petition, stating that the amount of his or her demand is bona fide due and owing at the time of preferring the petition.

Proviso.

Commencement of this act.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXI.

An Act directing the Mode of serving Writs of Scire Facias.

[Passed the 18th of January, 1798.]

Preamble.

WHEREAS the manner of serving writs of scire facias, as heretofore practised, has been found inconvenient:

Writs of scire facias to be served in same manner as writs of capias ad respondendum.

I. *BE it therefore enacted by the General Assembly*, That where the defendant can be found, writs of scire facias shall hereafter be served in the same manner, as writs of capias ad respondendum. And where the said defendant cannot be found, it shall be considered as a sufficient service of the said writ, for the sheriff or other officer to whom the same is directed, to leave a copy thereof with the wife of the defendant, or some free person above the age of sixteen years, then and there being one of the family of the defendant, and found at his usual place of abode: *Provided always*, That bail shall not be required by the officer serving a writ of scire facias; and that this act shall not be construed to repeal the act, authorising writs of scire facias to be issued to, and executed in counties or districts, other than those in which judgments may have been obtained.

Proviso.

Commencement of this Act.

II. THIS act shall commence and be in force from and after the first day of May next.

CHAP. CCXXXII.

An Act to amend the Act concerning Election of Members of General Assembly.

[Passed the 17th of January, 1798.]

Repealing part of former act relative to contested elections.

I. BE *it enacted*, That so much of the act, intituled, *An act concerning election of members of General Assembly*, passed in December, one thousand seven hundred and eighty five, as provides, that no trial of a contested election of members of either house of Assembly, shall be had within less than fourteen days after complaint lodged with the speaker of either house of assembly, shall be, and the same is hereby repealed.

Election of members of assembly, when holden.

II. *AND be it further enacted*, That from and after the first day of January next, the election of members to the General Assembly shall be held on the third Monday in March in every year, throughout this commonwealth; any law to the contrary notwithstanding.

Concerning the poll at elections.

III. IF the poll to be held at any such elections is not closed on the first day, the same shall be kept open two days thereafter at least.

Electors in towns entitled to representation, may vote for members to congress.

IV. *AND be it further enacted*, That electors in towns entitled to representation in the house of delegates, shall have a right to vote at their respective court-houses for representatives to congress, and the officers holding such elections, shall be subject to the like regulations in taking and returning their polls, as the sheriffs of counties are, and shall be entitled to the like compensation for their services and travelling expenses.

CHAP. CCXXXIII.

An Act to prevent the Clerks of District Courts from acting as Justices of the Peace.

[Passed the 12th of January, 1798.]

Clerks of district courts prohibited from acting as justices of the peace.

I. BE *it enacted by the General Assembly*, That it shall not be lawful for any clerk of a district court to exercise the office of a justice of the peace; and any clerk so offending, shall be subject to the same penalties, to be recovered and applied in like manner with those incurred by persons presuming to act as magistrates, without first qualifying as the law directs.

Commencement of this act.

II. THIS act shall commence and be in force from and after the first day of June next.

CHAP. CCXXXIV.

An Act concerning Hawkers and Pedlars.

[Passed the 18th of January, 1798.]

Pedlars prohibited selling goods without license.

I. BE *it enacted by the General Assembly*, That no hawker or pedlar, shall offer for sale or barter, any goods, wares, or merchandize, unless such person or persons so offering the same, shall have first obtained a license from some court of record in this commonwealth, which license the county and corporation courts are hereby authorised to grant, on satisfactory proof appearing to them of the honesty and good demeanor of the person applying, and on his paying to the sheriff or serjeant of the court granting such license, twenty dollars, which license shall be annually renewed.

Penalty for selling without license.

II. ANY person offering for sale or barter, any goods, wares, or merchandize, as a hawker or pedlar, without producing a license as aforesaid, shall forfeit and pay fifty dollars, to be recovered by action of debt or information in any court of record within this commonwealth, one moiety to the use of the informer, and the other to the use of the commonwealth; *Provided*, That in all such cases, bail shall be required as in actions of debt.

Proviso.

Fee to clerks for issuing licenses, and their duty under this act.

III. THE clerks of the respective courts, shall be entitled to receive fifty cents for each license to be granted in pursuance of this act. It shall be the duty of the clerks to transmit to the auditor of public accounts, once in every year, whether any and what number of licenses have been granted by his court under this act; and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice.

Sheriffs commissions, &c.

IV. THE sheriff or serjeant for receiving the tax laid by this act on licenses, shall be entitled to the same commissions, and be subject to the same proceedings, for non-payment of the same into the treasury, as is prescribed for the recovery of the public revenue.

Construction of this act as to goods of the growth of the United States.

V. NOTHING in this act contained, shall be construed to prevent any person or persons from offering for sale, or barter, any goods or commodities, the growth or manufacture of this commonwealth, or of any of the United States; nor shall any thing herein contained, be construed so as to permit any person obtaining a license under this act, to authorise any negro or mulatto, bond or free, to vend any goods, wares, or merchandize, but in all such cases, the negro or mulatto offering any goods, wares, or merchandize, shall be proceeded against in like manner as is prescribed by this act, against persons offering goods, wares, or merchandize, for sale or barter, without license.

Penalty on negroes and mulattoes offering goods for sale.

Commencement of this act.

VI. THIS act shall commence and be in force from and after the eighth day of March next.

CHAP. CCXXXV.

An Act increasing the Salary of the Clerk of the General Court, and for other Purposes.

[Passed the 22d of December, 1797.]

Salary of the clerk to the general court.

I. BE *it enacted by the General Assembly*, That in lieu of the salary now allowed by law to the Clerk of the General court, he shall and may receive at and after the rate of five hundred dollars per annum, payable in like mannner as the salary heretofore allowed him, has been paid.

Repealing clause.

II. *AND be it further enacted*, That the fifth section of the act of Assembly, passed in the year one thousand seven hundred and ninety-two, intituled, *An act reducing into one the several acts concerning the fees of certain officers, and declaring the mode of discharging the said fees and county levies*, shall be, and is hereby repealed.

Fees for motions made, or suits instituted chargable to the commonwealth.

III. *AND be it further enacted*, That where a motion shall be made or suit instituted against any person or persons for money due to the public, by, or in the name of the person authorised by law so to do, and judgment shall be recovered against him, her, or them, the clerk of the court wherein such motion shall be made or suit instituted, shall be, and is hereby authorised to charge to the commonwealth the fees accruing thereon for services rendered the public:

Proviso.

Provided however, That the said fees shall not be demanded or exacted until the same shall be received of the person or persons against whom such judgment shall be obtained.

Commencement of this act.

IV. THIS act shall commence and be in force from and after the first day of January, one thousand seven hundred and ninety-eight.

CHAP. CCXXXVI.

An act to amend the act, intituled, An act for the appointment of Harbour-Masters, and declaring their Duty.

[Passed the 18th of January, 1798.]

Powers of harbour masters as to bay craft.

I. BE *it enacted by the General Assembly*, That the harbour masters appointed, or to be oppointed under the act, intituled, "*An act for the appointment of harbour masters, and declaring their duty*," shall have and exercise full power and authority to regulate the anchoring of the river and bay crafts, that shall come within their respective jurisdictions.

Penalty on refractory skippers.

II. EVERY master or skipper of a river or bay craft, who shall refuse to obey the directions of the harbour master, shall forfeit and pay the sum of two dollars, to be recovered by the harbour master, by warrant before any justice of the peace, which fine shall be applied towards lessening the county or corporation levies, as the case may be.

Fees demandable for bay craft.

III. THE harbour master shall be entitled to receive from the master or skipper of each bay or river craft, that shall go within the county dock, or that shall anchor at, or be secured to the county wharf, twenty-five cents, to be recovered in like manner as is prescribed for his other fees.

Power of harbour masters as to flats, &c. and penalty on owners thereof disobeying his directions.

IV. THE harbour master shall likewise have power to remove from the county wharf, all flats, lighters, and boats, that may obstruct the passage of ferry boats. And if any owner or master of a flat, lighter, or boat, shall refuse to obey the orders of the harbour master in this respect, every such owner or master, if a free man, shall forfeit and pay one dollar, to be recovered by warrant before any justice of the peace, which fine shall be applied as before directed; and if a slave, he or she shall receive such corporal punishment, as the justice before whom he or she may be carried, shall award, not exceeding twenty lashes.

Fees demandable for square rigged and other vessels.

V. *AND be it further enacted*, That instead of the fees heretofore allowed the harbour masters, they shall be entitled to receive from all masters or commanders of square rigged vessels, two dollars, and for all schooners and sloops, one dollar and twenty-five cents, and no more.

Proviso.

Provided nevertheless, That no master or skipper of any bay or river craft, shall be subject to the payment of any fee by this act imposed, except those who shall go within any ferry dock, or shall anchor at, or make fast to the county wharfs.

Construction of this act in certain cases.

VI. THIS act shall not be so construed as to authorise any harbour master to prevent any bay or river craft from going to, or anchoring at any private wharves.

Repealing clause.

VII. ALL acts coming within the purview of this act, shall be, and are hereby repealed.

Commencement of this Act.

VIII. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXVII.

An act authorising the Register of the Land Office to deliver original Plats and Certificates of Survey, in certain cases.

[Passed the 11th of January, 1798.]

Register authorised to redeliver original plats of survey for certain lands herein described.

I. BE *it enacted by the General Assembly*, That the register of the land-office be, and he is hereby authorised and directed, to deliver to any person or persons, authorised to receive the same, the original plats and certificates of survey, returned to his office, for lands situated between the Scioto and Little Miami rivers, and for which, grants may have been issued, in consideration of military services.

Commencement of this act.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXVIII.

An Act directing the Mode of appointing the Public Printer, prescribing his Duties, and for other Purposes therein mentioned.

[Passed the 22d of January, 1798.]

Public printer, how appointed.

I. BE *it enacted*, That the Public Printer shall be appointed annually by joint ballot of both houses of Assembly. *Provided*, That the present Public Printer, Augustine Davis, shall continue in office until the next session of Assembly.

Services to be performed by him.

II. AND to prevent misunderstanding concerning the duties of the Public Printer, *Be it further enacted*, That he shall within thirty days after the rising of the assembly, publish all laws passed during the session; that he shall publish the journals of the house of delegates, regularly during such session; that he shall publish in his gazette or otherwise, as the same may be directed, all intelligence, notices of particular laws, proclamations and advertisements from the executive: Also all orders and advertisements directed to be published by the supreme courts, the treasurer, the auditor, attorney general, justices of the peace, and other public persons or bodies acting in their public capacity, and to supply the Executive, Treasury, Auditor, and Inspectors with blanks: But nothing herein expressed shall prevent the Public Printer from taking any fee which the law may have specially pointed out for any of the foregoing services.

Proviso.

Annual salary allowed him.

III. AND whereas it has been represented to this present General Assembly, that the compensation heretofore allowed the Public Printer is inadequate to his services, it not being an indemnification for the labour, materials found, and other articles absolutely necessary to the carrying on the said business: *Be it therefore further enacted*, That the annual sum of two thousand seven hundred dollars be allowed the said Printer, as a compensation for his services, and that the auditor be directed to issue his warrant upon the treasurer, for the sum aforesaid.

Vacancy in the office of public printer during the recess of the General Assembly, how supplied, &c.

IV. *AND be it further enacted*, That when a vacancy shall happen in the office of the said Printer, during the recess of the assembly, by his death, resignation, or removal, such vacancy shall be supplied by the Executive, to continue until the meeting of the legislature, who shall, as soon as convenient thereafter, proceed to the appointment of a Printer, in manner and form herein prescribed: And such person appointed by the Executive, shall be paid for his services, such proportion of the above sum as the Executive may deem equitable and just, under such appointment of the Executive.

Repealing clause.

V. ALL and every act or acts, and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

Commencement of this act.

VI. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXXXIX.

An Act vacating the Office of a Truſtee in certain caſes, and preſcribing the Manner of ſupplying ſuch Vacancy.

[Paſſed the 5th of January, 1798.]

Office of a truſtee of a town how vacated; and ſuch vacancy, how ſupplied.

I. BE *it enacted by the General Aſſembly*, That if any truſtee or director of a town not incorporated, hath removed or ſhall remove his reſidence to a greater diſtance than that of five miles from the ſaid town, ſuch removal and reſidence ſhall be conſidered as a vacation of the office and appointment of ſuch truſtee or director; and the vacancy thereby occaſioned, ſhall be ſupplied in the ſame manner as is provided in the caſe of other vacancies in the ſaid truſtees or directors.

Mode of appointing truſtees of towns where, by death, reſignation, &c. there are none remaining.

II. AND where by death, reſignation, or other cauſe, there are no truſtees remaining of any town not incorporated, it ſhall be lawful for the ſheriff of the county in which ſuch town is, and he is hereby directed, on application of any five freeholders of the ſaid town, for that purpoſe, to cauſe an election of truſtees or directors, to be made in the manner preſcribed by law for ſupplying vacancies in the ſaid truſtees or directors.

Commencement of this act.

III. THIS act ſhall commence and be in force from and after the paſſing thereof.

CHAP. CCXL.

An Act to amend the Act, for Limitations of Actions, for preventing frivolous and vexatious Suits, concerning Feoffails and certain proceedings in Civil caſes.

[Paſſed the 25th of January, 1798.]

Parol ſhall not demur by non-age.

BE *it enacted by the General Aſſembly*, That the parol ſhall not demur in any ſuit now depending, or hereafter to be brought in any court of common law or equity, by reaſon of the infancy of the plaintiffs or defendants, or of any, or of either of them, but ſuch court may nevertheleſs proceed to judgment or a final decree in the cauſe.

General Aſſembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 3d day of *December*, in the Year of our Lord, 1798. 1798.

CHAP. CCXLI.

An Act, to amend an Act, intituled, "An Act, to amend and reduce into one Act, the ſeveral Acts of Aſſembly, for regulating the Militia of this Commonwealth.

[Paſſed the 23d of January, 1799.]

Executive may conſolidate or divide regiments: additional brigades eſtabliſhed.

I. BE *it enacted by the General Aſſembly*, That it ſhall and may be lawful for the Executive of this Commonwealth, to conſolidate and divide regiments of militia in the ſeveral counties of this ſtate as circumſtances may direct: That the counties of Monongalia, Ohio, Brooke, Harriſon, Randolph, and Wood, ſhall conſtitute one brigade, and the counties of Hampſhire, Hardy, and Pendleton, ſhall conſtitute one brigade; and that the counties of Wythe, Montgomery, and Monroe, ſhall conſtitute one brigade; any thing in this or any other act to the contrary, notwithſtanding.

Regimental courts of inquiry, to fix time of petty muſters; and notice thereof unneceſſary.

II. *AND be it further enacted*, That the time and place for the regular muſters of each company of militia ſhall be fixed by the firſt regimental court of inquiry, which is held next after the paſſing of this act, ſubject to ſuch changes as future regimental courts of inquiry may think proper; and the notice of ſuch muſters heretofore required by law, are hereby declared to be unneceſſary, after ſuch time and place ſhall be fixed as aforeſaid.

Officers to appear in uniform.

III. ALL commiſſioned officers are hereby required to appear in full uniform when on duty.

Cavalry and artillery ſhall parade with and

IV. *AND be it enacted*, That the troops of cavalry, and companies of artillery, belonging to the ſeveral diviſions, ſhall parade with the regiments of

motion in the general court, with costs, and moreover be liable to be displaced from office by the general court.

Period within which motions may be made against delinquent clerks, prolonged.

IV. *AND be it further enacted*, That the period for moving against the respective clerks, for arrearages of taxes heretofore received by them, shall be and the same is hereby extended until the first day of January in the year eighteen hundred; and if any clerk shall fail to pay such arrearages, no fees whatsoever shall be thereafter collected, levied, or distrained, for or on behalf of such clerk, until the said arrearages shall be accounted for and paid.

Auditor to publish names of delinquent clerks.

V. *AND be it further enacted*, That it shall be the duty of the auditor, immediately after the first day of October in each year, to publish in the public papers for two months successively, the names of all clerks, being defaulters under this act, together with extracts from this law, prohibiting the recovery of his fees in consequence of such delinquency.

CHAP. CCXLIII.

An Act laying Taxes for the Support of Government.

[Passed the 23d of January, 1799.]

Taxes on lands, slaves, horses and carriages.

I. BE *it enacted by the General Assembly*, That the public taxes, for the year one thousand seven hundred and ninety-eight, shall be as follows, to wit: on lands, for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been, or shall be exempted by reason of age or infirmity, by the respective county or corporation courts, forty-four cents; for every stud horse and jack ass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares, and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheel riding carriage, except phætons and stage waggons, one dollar and twenty-five cents per wheel; for all phætons and stage-waggons, eighty-four cents per wheel; for every other riding carriage with two wheels, forty-three cents per wheel, and for all lots and houses in towns, one dollar fifty-six cents, on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioners were appointed, whose judgment as to the yearly rent or value shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots, actually leased, may call on the tenant or proprietor to declare on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue, or either of them: *Provided*, That no tax shall be collected on lands, lots, houses or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

On lots and houses, situated in towns.

Proviso.

Public property exempted from tax.

Licenses to merchants selling goods, wholesale or retail.

II. *AND be it further enacted*, That from and after the first day of May next, upon any person's producing to the commissioner of the revenue, for the county, district or corporation, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person a license to sell merchandize of foreign growth or manufacture, by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall in like manner receive a license to retail such goods for the same time. And if any person shall sell such merchandize, either by wholesale or retail, on land, or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice, and to be paid to the sheriff, for the use of the commonwealth; of which licenses and fines, the commissioner shall annually in their books, return a list to the auditor of public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence, whereupon to charge the sheriff or collector: *Provided nevertheless*, that not above one tax shall be paid, on account of so selling at one and the same store, and provided also,

Penalty on dealing without such license first obtained.

Proviso.

that nothing contained in this, or any other act, shall be so construed, as to impose a tax on planters or farmers, for selling salt to their neighbours, purchased as a return load for their produce, carried in their waggons or otherwise to market.

Concerning hawkers and pedlers.

III. *AND be it further enacted*, That the act concerning hawkers and pedlers, shall be so construed, as to make it necessary for each hawker and pedler to obtain a license.

Allowance to commissioner for issuing such licenses, and how paid.

IV. FOR every license granted by a commissioner under this act, he shall be entitled to twenty-five cents, which shall be paid to him out of the public treasury, on warrant of the auditor of public accounts, after his list of licenses shall be returned to the auditor as aforesaid.

Clerks of courts to return a list of pedlers' licenses to the auditor.

V. CLERKS of courts shall annually return to the auditor, on or before the fifteenth day of September, a list of all hawkers and pedlers' licenses, granted by their respective courts, and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice.

Notices on motions against sheriffs, and other officers herein mentioned, unnecessary.

VI. AND for the more effectual collection of the said taxes, and others which may become due to the Commonwealth, *Be it further enacted*, that no notice shall hereafter be necessary to any sheriff, collector, clerk, or inspector, for the purpose of recovering a judgment for any taxes, fine or public dues of any kind, but that the same may be recovered by the auditor, on motion without notice, provided such motion be made within twelve months after such taxes, fine or public dues shall become payable, or shall be incurred.

List of insolvents, by sheriffs, to be returned within twelve months.

VII. NO sheriff or other collector shall at any time, be allowed to return any list of insolvents, or have any credit therefor, after twelve months shall have expired, from the period of the taxes becoming payable, by such sheriff or collector, to which such list relates.

Commission allowed for collecting tax on licenses.

VIII. A COMMISSION of five per cent. and no more, shall be allowed to sheriffs and collectors for the collection of the taxes on licenses to be granted to merchants under this act, and on licenses to be granted to hawkers and pedlers, under an act, intituled "an act concerning hawkers and pedlers," any law to the contrary notwithstanding.

Commissioner to return list of licenses to county or corporation courts, for their examination.

IX. A LIST of all licenses granted to merchants, shall be returned by the commissioner granting the same, to the county or corporation courts, for their examination; after which the said list shall be delivered to the sheriffs or collectors, who shall annually on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Commencement of this act.

X. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXLIV.

An Act, to amend the Act, intituled "An Act, to reduce into one the several Acts concerning Slaves, Free Negroes and Mulattoes."

[Passed the 25th of January, 1799.]

Punishment for stealing any negro or mulatto slave.

I. BE *it enacted by the General Assembly*, That if any person or persons shall hereafter be guilty of stealing any negro, or mulatto slave whatsoever, and shall thereof be lawfully convicted, such person or persons so convicted, shall suffer death without benefit of clergy: whether the said slave or slaves so stolen shall have been taken out of, or from the actual or immediate possession of the owner or overseer of such slave or slaves, or shall have been elsewhere found: *Provided nevertheless*, That so soon as the governor, by advice of council, shall issue his proclamation, declaring the penitentiary house to be in a situation fit to receive criminals, agreeably to the act, intituled "*An Act to amend the Penal Laws of this Commonwealth*;" any person or persons guilty of the offence above mentioned, shall undergo a confinement in the said penitentiary house, for a period not less than three, nor more than eight years, under the conditions, and agreeably to the directions in the said act contained.

Proviso.

Repealing clause.

II. ALL and every act, clause or part of an act, coming within the purview of this act, shall be, and are hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

motion in the general court, with costs, and moreover be liable to be displaced from office by the general court.

Period within which motions may be made against delinquent clerks, prolonged.

IV. *AND be it further enacted*, That the period for moving against the respective clerks, for arrearages of taxes heretofore received by them, shall be and the same is hereby extended until the first day of January in the year eighteen hundred; and if any clerk shall fail to pay such arrearages, no fees whatsoever shall be thereafter collected, levied, or distrained, for or on behalf of such clerk, until the said arrearages shall be accounted for and paid.

Auditor to publish names of delinquent clerks.

V. *AND be it further enacted*, That it shall be the duty of the auditor, immediately after the first day of October in each year, to publish in the public papers for two months successively, the names of all clerks, being defaulters under this act, together with extracts from this law, prohibiting the recovery of his fees in consequence of such delinquency.

CHAP. CCXLIII.

An Act laying Taxes for the Support of Government.

[Passed the 23d of January, 1799.]

Taxes on lands, slaves, horses and carriages.

I. BE *it enacted by the General Assembly*, That the public taxes, for the year one thousand seven hundred and ninety-eight, shall be as follows, to wit: on lands, for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been, or shall be exempted by reason of age or infirmity, by the respective county or corporation courts, forty-four cents; for every stud horse and jack ass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares, and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheel riding carriage, except phætons and stage waggons, one dollar and twenty-five cents per wheel; for all phætons and stage-waggons, eighty-four cents per wheel; for every other riding carriage with two wheels, forty-three cents per wheel, and for all lots and houses in towns, one dollar fifty-six cents, on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value shall be ascertained by the commissioners of the revenue or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioners were appointed, whose judgment as to the yearly rent or value shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots, actually leased, may call on the tenant or proprietor to declare on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue, or either of them: *Provided*, That no tax shall be collected on lands, lots, houses or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning.

On lots and houses, situated in towns.

Proviso.

Public property exempted from tax.

Licenses to merchants selling goods, wholesale or retail.

II. *AND be it further enacted*, That from and after the first day of May next, upon any person's producing to the commissioner of the revenue, for the county, district or corporation, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person a license to sell merchandize of foreign growth or manufacture, by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall in like manner receive a license to retail such goods for the same time. And if any person shall sell such merchandize, either by wholesale or retail, on land, or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice, and to be paid to the sheriff, for the use of the commonwealth; of which licenses and fines, the commissioner shall annually in their books, return a list to the auditor of public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence, whereupon to charge the sheriff or collector: *Provided nevertheless*, that not above one tax shall be paid, on account of so selling at one and the same store, and provided also,

Penalty on dealing without such license first obtained.

Proviso.

that nothing contained in this, or any other act, shall be so construed, as to impose a tax on planters or farmers, for selling salt to their neighbours, purchased as a return load for their produce, carried in their waggons or otherwise to market.

Concerning hawkers and pedlers.

III. *AND be it further enacted*, That the act concerning hawkers and pedlers, shall be so construed, as to make it necessary for each hawker and pedler to obtain a license.

Allowance to commissioner for issuing such licenses, and how paid.

IV. FOR every license granted by a commissioner under this act, he shall be entitled to twenty-five cents, which shall be paid to him out of the public treasury, on warrant of the auditor of public accounts, after his list of licenses shall be returned to the auditor as aforesaid.

Clerks of courts to return a list of pedlers' licenses to the auditor.

V. CLERKS of courts shall annually return to the auditor, on or before the fifteenth day of September, a list of all hawkers and pedlers' licenses, granted by their respective courts, and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice.

Notices on motions against sheriffs, and other officers herein mentioned, unnecessary.

VI. AND for the more effectual collection of the said taxes, and others which may become due to the Commonwealth, *Be it further enacted*, that no notice shall hereafter be necessary to any sheriff, collector, clerk, or inspector, for the purpose of recovering a judgment for any taxes, fine or public dues of any kind, but that the same may be recovered by the auditor, on motion without notice, provided such motion be made within twelve months after such taxes, fine or public dues shall become payable, or shall be incurred.

List of insolvents, by sheriffs, to be returned within twelve months.

VII. NO sheriff or other collector shall at any time, be allowed to return any list of insolvents, or have any credit therefor, after twelve months shall have expired, from the period of the taxes becoming payable, by such sheriff or collector, to which such list relates.

Commission allowed for collecting tax on licenses.

VIII. A COMMISSION of five per cent. and no more, shall be allowed to sheriffs and collectors for the collection of the taxes on licenses to be granted to merchants under this act, and on licenses to be granted to hawkers and pedlers, under an act, intituled "an act concerning hawkers and pedlers," any law to the contrary notwithstanding.

Commissioner to return list of licenses to county or corporation courts, for their examination.

IX. A LIST of all licenses granted to merchants, shall be returned by the commissioner granting the same, to the county or corporation courts, for their examination; after which the said list shall be delivered to the sheriffs or collectors, who shall annually on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Commencement of this act.

X. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXLIV.

An Act, to amend the Act, intituled "An Act, to reduce into one the several Acts concerning Slaves, Free Negroes and Mulattoes."

[Passed the 25th of January, 1799.]

Punishment for stealing any negro or mulatto slave.

I. BE *it enacted by the General Assembly*, That if any person or persons shall hereafter be guilty of stealing any negro, or mulatto slave whatsoever, and shall thereof be lawfully convicted, such person or persons so convicted, shall suffer death without benefit of clergy: whether the said slave or slaves so stolen shall have been taken out of, or from the actual or immediate possession of the owner or overseer of such slave or slaves, or shall have been elsewhere found: *Provided nevertheless*, That so soon as the governor, by advice of council, shall issue his proclamation, declaring the penitentiary house to be in a situation fit to receive criminals, agreeably to the act, intituled "*An Act to amend the Penal Laws of this Commonwealth*;" any person or persons guilty of the offence above mentioned, shall undergo a confinement in the said penitentiary house, for a period not less than three, nor more than eight years, under the conditions, and agreeably to the directions in the said act contained.

Proviso.

Repealing clause.

II. ALL and every act, clause or part of an act, coming within the purview of this act, shall be, and are hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXLV.

An Act prescribing the Duty of the Commissioners of the Public Revenue, in certain Cases relative to Lands.

[Passed the 25th of January, 1799.]

Proceedings by commissioners of the revenue, in cases where lands lying in one county, have been taxed in another.

I. BE *it enacted by the General Assembly*, That where commissioners of the public revenue, in acting under the several laws prescribing the mode of ascertaining the taxable property within this commonwealth, shall tax lands as lying in one county, which lie in another, it shall be the duty of the commissioners of the counties wherein such lands so improperly taxed, actually lie, and they are hereby required, on information of the fact, to certify the same, and the quality of such lands to the commissioners, who committed the errors in such taxation, and thereupon the said lands shall be transferred from the books of the said commissioners, wherein they were taxed as aforesaid, to the books of the commissioners of the counties wherein such lands really lie.

Assessment of lands in Greenbrier, &c. when completed, shall by the commissioners be delivered to the sheriffs.

II. *AND be it further enacted*, That the commissioners appointed under the act, for assessing the lands in the counties of Greenbrier, Kanawha and Randolph, shall after completing the assessment therein required, deliver a copy of the said assessment to the sheriffs of each of the said counties, who shall receive the same, and be directed thereby in making his collections.

Commencement of this act.

III. THIS act shall commence and be in force from the passing thereof.

CHAP. CCXLVI.

An Act, to repeal certain Acts, and to declare the construction of the Bill of Rights, and Constitution concerning Religion.

[Passed the 24th of January, 1799.]

Preamble.

WHEREAS the constitution of the state of Virginia, hath pronounced the government of the King of England, to have been totally dissolved by the revolution: hath substituted in place of the civil government so dissolved, a new civil government; and hath in the bill of rights, excepted from the powers given to the substituted government, the power of reviving any species of ecclesiastical or church government, in lieu of that so dissolved, by referring the subject of religion to conscience: And whereas the several acts presently recited, do admit the church established under the regal government, to have continued so, subsequently to the constitution; have bestowed property upon that church; have asserted a legislative right to establish any religious sect; and have incorporated religious sects, all of which is inconsistent with the principles of the constitution, and of religious freedom, and manifestly tends to the re-establishment of a national church: For prevention whereof,

Certain acts herein mentioned repealed.

Be it enacted, That the several laws, the titles whereof are as follow: "An "act, for exempting the different societies of dissenters, from contributing to "the support and maintainance of the church as by law established, and its ministers, and for other purposes therein mentioned"—"An act, to repeal so "much of the act, for the support of the clergy, and for the regular collecting "and paying the parish levies, as relates to the payment of the salaries heretofore given to the clergy of the church of England"—"An act, for incorporating the Protestant Episcopal church"—"An act, to authorise the election of "certain vestries"—"An act, to repeal the act, for incorporating the Protestant "Episcopal church, and for other purposes"—and "An act, for giving certain "powers to the trustees of the property of the Protestant Episcopal church," be and the same are hereby repealed, and declared to be void and of none effect. And it is further declared, that the law, intituled "An act, for establishing religious freedom," is a true exposition of the principles of the bill of rights and constitution.

CHAP. CCXLVII.

An Act, to amend the Act, intituled "An Act concerning the election of Members of the General Assembly."

[Passed the 19th of January, 1799.]

The taking of depositions in cases of contested elections.

I. BE *it enacted by the General Assembly*, That whensoever hereafter the election of any person returned to serve as a Senator or Delegate, is intended

ed to be contested, the petitioner and the returned member, shall respectively begin to take their depositions, within two months after such election, and shall finish taking the same at least thirty days preceding the commencement of the ensuing session of assembly. If either party shall fail to begin and finish taking his depositions, within the times above prescribed and limited, he shall be deprived of all benefit of such depositions when taken.

tested elections, when to commence and be completed.

II. NOTHING herein contained shall be construed to contravene or repeal in any manner, the regulations concerning contested elections, prescribed by the act, intituled, "An act concerning the election of members of general assembly."

Saving clause.

III. AND any person hereafter, who shall be a candidate for any county, or senatorial district, to serve if elected, in the general assembly, who shall directly or indirectly give or agree to give, any elector or pretended elector, money, meat, drink or other reward, in order to be elected, or who shall treat directly or indirectly, being a candidate for such, or any other county, city, borough or district, upon due proof thereof to either house, shall be expelled and disabled to be re-elected during the term of three years; any thing in the above recited act, or in any other act to the contrary notwithstanding: *Provided nevertheless*, that nothing herein contained, shall be so construed as to prevent any candidate from his usual intercourse of friendship with his neighbours, at his own house.

Candidates to either House of Assembly, who shall give meat, money, drink, or other reward, in order to be elected, liable to be expelled.

Proviso.

CHAP. CCXLVIII.

An Act, to preserve the Freedom of Speech, and Proceedings in the Legislature.

[Passed the 28th of December, 1798.]

Preamble.

WHEREAS freedom of speech and proceedings, appertaineth of right, to the General Assembly, and the preservation thereof is necessary to secure the liberty of the people:

Any person arresting or prosecuting a member of the senate or house of delegates, for ought said or done in his representative capacity, or aiding there in, triable as in cases of misdemeanor, and liable to fine and imprisonment.

I. *BE it enacted*, That if any person shall arrest or prosecute, or be aiding or abetting in arresting or prosecuting, a member or members of the Senate, or House of Delegates, for, or on account of any words spoken or written, any proposition made, or proceedings had in the said Senate, or House of Delegates, every such person so offending, shall be deemed guilty of a misdemeanor, and shall be apprehended, committed, and tried therefor, as in other cases of misdemeanors, before the general court, or a district court of this commonwealth, and being thereof convicted by the verdict of a jury, shall be adjudged to suffer imprisonment for a term not exceeding one year, and shall pay a fine, not exceeding two thousand dollars; which imprisonment and fine shall be assessed by a jury.

Any such member, in case of being arrested or imprisoned may apply for, and obtain his writ of habeas corpus.

II. *AND be it further enacted*, That if any member or members of the said Senate, or House of Delegates, shall be arrested or imprisoned, for, or on account of any words, spoken or written, or for any proposition made, or proceedings had in the said Senate or House of Delegates, such member or members may apply to the general court, or a district court, or any judge thereof, in vacation, for a writ of Habeas Corpus, who are hereby empowered and required to issue the same, returnable before the said court, or said judge, or any other judge, and upon the return thereof, to liberate and discharge such member or members.

Provisions of this act extended, to the arresting and prosecuting any person or persons, although such person shall have ceased to be a member of the senate or house of delegates.

Proviso.

III. *AND be it further enacted*, That the provisions of this act shall be extended to the arresting, and prosecuting any person or persons, for words spoken or written, or for any propositions made, or proceedings had in the said Senate or House of Delegates, and to the discharging and liberating any person or persons, by habeas corpus, as aforesaid, although such person or persons, shall by disqualification, or from any other causes, have ceased to be a member of the said Senate, or House of Delegates, at the time of such arrest or prosecution, or of the trial, judgment or imprisonment, in consequence thereof: *Provided*, That nothing herein contained, shall in any respect extend to the power which either house of the general assembly, now hath, or may exercise over their respective members.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXLIX.

An Act to amend the act, for reducing into one, the ſeveral "acts concerning Executions, and for relief of Inſolvent Debtors.

[Paſſed the 24th of January, 1799.]

Executions iſſued from diſtrict courts, when returnable.

I. BE *it enacted by the General Aſſembly*, That executions hereafter iſſued from a diſtrict court, may at the election of the party ſuing out the ſame, be returnable on the firſt day of the next court of ſuch diſtrict, or to the clerk's office on the firſt day of any month previous thereto, unleſs that ſhall happen on a Sunday, in that caſe the ſame ſhall be returnable on the next day: *Provided however*, that there be at leaſt thirty days between the teſte and return of ſuch executions.

Proviſo.

Where executions are not returned, clerk may iſſue a new writ.

II. IF any execution returnable in vacation of the courts, ſhall not be returned accordingly, or being returned, ſhall not be ſatisfied, the clerk may iſſue a new execution returnable as aforeſaid, in like manner as is now provided in the caſe of executions, returnable to the court.

Forms of executions returnable in vacation may by clerks be adapted to the nature of the caſe: and penalty on officers failing to make due return thereof

III. UNTIL the court of appeals ſhall direct the forms of executions, returnable in vacation of the court, the ſame ſhall be adapted by the clerks to the nature of the caſe. And where any ſuch execution returnable in vacation of the court, ſhall come into the poſſeſſion of any ſheriff, coroner or ſerjeant of a corporation, and he ſhall fail to return the ſame to the office from whence it was iſſued, on or before the return day thereof, it ſhall be lawful for the court, ten days previous notice being given on the motion of the party injured, to fine ſuch ſheriff, coroner or ſerjeant, or the executors, adminiſtrators or ſecurities of ſuch ſheriff, coroner or ſerjeant, at the diſcretion of ſuch court, in any ſum not exceeding five dollars per month, for every hundred dollars contained in the judgment, on which the execution ſo detained by ſuch ſheriff or other officer was iſſued, and ſo in proportion for any greater or leſſer ſum counting the aforeſaid months from the return day of the execution, to the day of rendering judgment for the ſaid fine.

Penalties impoſed on officers returning writs of fieri facias, venditioni exponas, or capias ad ſatisfaciendum, returnable in vacation, ſatisfied, and failing to pay the amount to the party entitled on demand, or ſuffering an eſcape.

IV. IF upon any writ of fieri facias, or Venditioni Exponas, returnable in vacation as aforeſaid, any ſheriff, under ſheriff, or other officer, ſhall make return that he hath levied the debt, damages or coſts, as in ſuch writ is required, or any part thereof, and ſhall not immediately on demand, pay the ſame to the party to whom the ſame is payable, or his attorney, or any other perſon authoriſed to receive the ſame, or ſhall return upon any writ of Capias ad Satisfaciendum, that he hath taken the body or bodies, of the defendant or defendants, and hath the ſame ready to ſatisfy the money or tobacco in ſuch writ mentioned, and ſhall have actually received ſuch money or tobacco of the defendant or defendants, or hath ſuffered him, her or them, to eſcape with the conſent of ſuch ſheriff, under ſheriff or other officer, and ſhall not immediately on demand, pay ſuch money or tobacco, to the party to whom the ſame is payable, or his attorney, then or in either of the ſaid caſes, it ſhall and may be lawful for the creditor, at whoſe ſuit ſuch execution ſhall iſſue, to proceed againſt ſuch ſheriff, officer or under ſheriff, or ſecurities of ſuch under ſheriff, in the ſame manner as if ſuch execution had been made returnable on the firſt day of the ſaid court, and ſuch court is hereby authoriſed to give judgment accordingly, and to award execution thereon.

Officers liable to like penalty on failing to return forthcoming bonds.

V. IF any ſheriff or other officer, ſhall fail to return to the clerks office, with the execution (unleſs he be otherwiſe directed by the creditor or creditors) any bond taken under ſuch execution, for the forthcoming of property, ſuch ſheriff or other officer, his executors or adminiſtrators, ſhall be liable to the ſame fine and penalty for every month of ſuch failure, to be recovered in the ſame manner, by the party injured, as is herein directed againſt a ſheriff failing to return an execution.

Clerk of court of appeals to certify the judgments of ſaid court on appeals from diſtrict courts, to the diſtrict court clerks, and execution may there upon iſſue.

VI. THE clerk of the court of appeals, ſhall immediately after the expiration of each term of ſuch court, certify to the clerks of the reſpective diſtrict courts from whence appeals were tranſmitted, copies of the judgments and deciſions given thereon, which if received by the clerk of a diſtrict court in vacation of ſuch court, ſhall be entered by him of record at the end of the proceedings of the preceding term of that court; and thereupon the ſaid clerk ſhall upon application, iſſue executions thereon, if by the deciſion of the court of appeals, it be proper ſo to do; and in all other reſpects ſhall proceed according to the directions of ſuch judgments and deciſions, in the ſame manner as if they

had been entered during the ſeſſion of the diſtrict court. And when by ſuch judgments and deciſions, damages are given for retarding the execution, the ſaid clerk ſhall calculate the ſame until the time the copies of the ſaid judgments or deciſions were delivered to them. When ſuch copies ſhall be received by the clerk of a diſtrict court during the ſeſſion thereof, the ſame proceedings ſhall be had thereon, as have heretofore been had in ſuch caſes. Damages allowed on ſuch judgments, how calculated.

VII. THE plaintiff or plaintiffs in a judgment on any ſuch forthcoming bond ſhall, and may recover againſt the defendant or defendants, in order to defray the expenſe incurred in giving a notice on ſuch bond, the ſum of fifty cents for each obligor to whom ſuch notice ſhall be given to be taxed and levied as other coſts are on the ſaid judgment. Plaintiffs allowed fifty cents for each notice on a forthcoming bond.

VIII. ALL the perſonal eſtate which ſhall be contained in the ſchedule of an inſolvent debtor, ſhall by ſuch debtor be transferred and delivered, and all the real eſtate conveyed to the ſheriff, under the directions of the court or perſons before whom the oath of inſolvency ſhall be taken, before ſuch inſolvent debtor ſhall be diſcharged, to be by ſuch ſheriff diſpoſed of according to law. Eſtate of an inſolvent contained in ſchedule to be transferred or conveyed to ſheriffs, prior to his diſcharge.

IX. THE clerks of diſtrict courts inſtead of the fees now allowed by law, for iſſuing executions on the following judgments, and taxing the damages and coſts thereon ſhall be allowed in ſuch caſes the fees hereafter mentioned to be taxed in the bill of coſts as in other caſes. Fees of diſtrict court clerks in certain caſes.

	Dols.	Cts.
Upon the affirmance by a diſtrict court of a judgment of a county or corporation court where no appeal is granted to the court of appeals,	1	20
Upon the affirmance in the court of appeals of a judgment in a ſuit or on a motion which originated in a diſtrict court,	1	20
Upon a like affirmance of a judgment in a ſuit or on a motion which originated in a county or corporation court,	2	40

And for taxing the damages and coſts on the ſaid judgments if no execution be iſſued thereon, half the fees above mentioned ſhall be allowed.

X. ALL acts and parts of acts coming within the purview of this act, ſhall be and the ſame are hereby repealed. Repealing clauſe.

XI. THIS act ſhall commence and be in force, from and after the fifteenth day of June next. Commencement of this act.

CHAP. CCL.

An Act concerning Elections.

[Paſſed the 2d of January, 1799.]

I. BE *it enacted by the General Aſſembly*, That the ſecond ſection of the act, paſſed at the laſt ſeſſion, intituled, "An act to amend the act concerning the election of members of the General Aſſembly," whereby it is enacted, that after the firſt day of January, one thouſand ſeven hundred and ninety-nine, the election of members of the general aſſembly, ſhall be held on the third Monday in March, in every year, ſhall be, and is hereby repealed. Part of act herein mentioned repealed.

II. *AND be it further enacted*, That in future ſuch elections, and thoſe alſo of Repreſentatives to Congreſs, ſhall be held on the fourth Wedneſday in April, in every year; any law to the contrary notwithſtanding. State and congreſſional elections when holden.

III. SO much of the "Act intituled an act, for arranging the counties of this commonwealth, into diſtricts, to chooſe Repreſentatives to Congreſs," as comes within the purview of this act, ſhall be, and the ſame is hereby repealed. Repealing clauſe.

IV. *AND be it further enacted*, That ſo much of the eighth ſection of the act, paſſed on the twentieth day of December, one thouſand ſeven hundred and eighty-five, intituled an act concerning elections of Members of General Aſſembly, as directs the returning officers of the ſenatorial diſtricts to make their returns within twenty days, after the laſt day of election, ſhall be, and the ſame is hereby repealed. Additional repealing clauſe.

V. *AND be it further enacted*, That the ſheriffs of each county, within the ſenatorial diſtricts of this commonwealth, ſhall meet within five days after the election, in each diſtrict, at the court-houſe of the county, firſt named therein, and from the poll ſo taken in their reſpective counties, return as a Senator, the Time within which, and place where ſheriffs ſhall meet in a ſenatorial diſtrict after

the election of a senator,

man who shall have the greateſt number of votes in the whole diſtrict: *Provided nevertheleſs*, if from high waters, or other unavoidable accident, any ſheriff or ſheriffs, may be prevented from attending at the times and places aforeſaid, the other ſheriffs ſhall adjourn from day to day, until the buſineſs be completed.

Commencement of this Act.

VI. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCLI.

An Act to amend an act, intituled, an act to diſable certain Officers under the Continental Government, from holding Offices under the authority of this Commonwealth.

[Paſſed the 9th of January, 1799.]

Perſons holding an office, place, commiſſion or appointment under the U. States, diſqualified from holding any ſuch under this ſtate.

I. BE *it enacted and declared by the General Aſſembly*, That no perſon holding, or accepting any office or place, or any commiſſion or appointment whatſoever, civil or military, under the authority of the United States, whether any pay or emolument be attached to ſuch office, place, commiſſion or appointment, or otherwiſe, or accepting or receiving any emolument whatſoever, from the United States, ſhall be capable of being elected to, or of holding any office, legiſlative, executive, or judicial, or any other office, place, or appointment of truſt, or profit, under the government of this commonwealth: *Provided*, That nothing herein contained, ſhall be ſo conſtrued as to prevent members of Congreſs from ſitting as county court magiſtrates, or from holding offices in the militia, or ſo as to exclude any perſon receiving a penſion from the United States, in conſequence of any wound received in war, from any office under this commonwealth, on account of ſuch penſion.

Proviſo.

Any perſon nominated to office by the general government, and not declining its acceptance, liable to like exclusions.

II. *AND be it further enacted*, That any perſon nominated to any office, place, or appointment, under the General Government, who ſhall not ſignify his intention to decline the acceptance thereof, previous to acting under any appointment under this commonwealth, ſhall be equally liable to the excluſions of this act, as if he had actually accepted the ſame.

Repealing clauſe.

III. ALL acts and parts of acts, coming within the purview of this act, ſhall be, and are hereby repealed.

Exception in favor of militia officers and ſoldiers.

IV. NOTHING herein contained ſhall ſo operate as to create any excluſion whatſoever upon militia officers or ſoldiers, on account of the recompence they may receive from the United States, when called out into actual duty.

Commencement of this act.

V. THIS act ſhall commence and be in force, from and after the firſt day of July next.

CHAP. CCLII.

An Act concerning certain Suits, proſecuted on behalf of the Commonwealth.

[Paſſed the 15th of January, 1799.]

Suits inſtituted on behalf of the ſtate, by certain officers, ſhall not abate by their death or removal from office.

I. BE *it enacted by the General Aſſembly*, That no ſuit now depending, or which may hereafter be proſecuted on behalf of the Commonwealth, in the name of the governor or treaſurer thereof, for the time being, ſhall abate by the death, reſignation or removal from office of the ſaid governor or treaſurer, but in ſuch caſe the ſame proceedings ſhall continue to be had, and the ſame judgment ſhall be entered in the ſaid ſuits, as if the ſaid governor or treaſurer were ſtill living or in office.

Commencement of this act.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCLIII.

An Act, authoriſing certain proceeding on the Writ of Mandamus.

[Paſſed the 22d of January, 1799.]

Preamble.

WHEREAS great difficulty and delay attends the preſent method of proceeding on writs of Mandamus, and it is proper that the ſame ſhould be amended by authoriſing certain other proceedings thereupon:

Proceedings which

BE it enacted by the General Aſſembly of Virginia, That as often as a writ of

Mandamus, shall issue out of a court having competent jurisdiction within this commonwealth, and a return shall be made thereunto, it shall and may be lawful to, and for the person or persons, suing or prosecuting such writ of Mandamus, to plead to, or traverse all or any of the material facts contained within the said return, to which the person or persons making such return, shall reply, take issue, or demur; and such further proceedings, and in such manner, shall be had therein for the determination thereof, as might have been had, if the person or persons suing such writ, had brought his or their action on the case for a false return, and if any issue shall be joined on such proceedings, the person or persons suing such writ, shall and may try the same in such place as an issue joined in such action on the case should or might have been tried: and in case a verdict shall be found for the person or persons suing such writ, or judgment given for him or them on demurrer, or by nil dicit, or for want of a replication or other pleading, he or they shall recover his or their damages and costs in such manner as he or they might have done in such action on the case as aforesaid; such costs and damages to be levied by Capias ad Satisfaciendum, fieri facias, or elegit, and a peremptory writ of Mandamus shall be granted without delay, for him or them for whom such judgment shall be given, as might have been, if such return had been adjudged insufficient, and in case judgment shall be given for the person or persons, making such return to such writ, he or they shall recover his or their costs of suit, to be levied in manner aforesaid.

may be had on a writ of Mandamus, returned; damages allowed either party in case of a judgment in their favor; and a peremptory Mandamus may issue as if the return thereon, had been adjudged insufficient.

Such damages, how levied.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 2d Day of *December*, in the Year of our Lord, 1799.

1799.

CHAP. CCLIV.

An Act to amend an act, intituled, an act for appointing Electors to choose a President and Vice-President of the United States.

[Passed the 20th of January, 1800.]

Preamble.

WHEREAS, until some uniform mode for choosing a President and Vice-President of the United States, shall be prescribed by an amendment to the Constitution, it may happen under the law of this Commonwealth, for appointing Electors for that purpose, that a choice may take place contrary to the will of a majority of the United States, and also contrary to the will of a majority of the people of this state, which would be inconsistent with the true intent and meaning of the Constitution of the United States; and although this Commonwealth is willing to accede to any reasonable and proper amendment of the said Constitution to remedy the said evil, yet forasmuch as it ought in the mean time to be counteracted by every Constitutional regulation within the power of the Legislature, until it shall be so removed:

Mode of election by commissioners.

I. *BE it enacted by the General Assembly*, That the persons qualified to vote for Electors of a President and Vice-President of the United States, under the act, intituled, "An act for appointing Electors to choose a President and Vice-President of the United States," shall each vote hereafter for twenty-one Electors, in manner herein directed. The Governor, with the advice of Council, shall on or before the first day of August, in every year wherein such election is to take place, appoint and commission three persons, in each county of this state, for the purpose of executing this law, any two or more of whom shall be competent to act. Each person before he enters upon the duties herein enjoined, shall take and subscribe the following oath: "I, A B, do solemnly "swear, faithfully and truly to execute the office of a Commissioner under the "act, intituled, "An act to amend an act, intituled, an act for appointing "Electors to choose a President and Vice-President of the United States," that "I will, to the best of my skill and judgment, admit all persons to vote entitled to do so, and reject all who are not so entitled, and that I will make a "fair return of the persons voted for as Electors, within my county, and of the "number of votes given for each, according to this act. So help me God." Which affidavit the magistrate administering the oath, shall return attested, to

the clerk of the county court, to be by him filed; and the ſaid magiſtrate ſhall alſo give to ſuch Commiſſioner a certificate that he had taken the oath preſcribed by this act. It ſhall be the duty of the ſaid Commiſſioners, to attend at the ſeveral places for holding the ſaid elections, directed by law, and then and there to hold the ſame, in manner following. They ſhall receive of each perſon whom they ſhall adjudge to be entitled to a vote, a paper containing the names of twenty-one perſons for whom ſuch individual ſhall vote as Electors, on the back of which paper, ſhall alſo be written the name of the perſon voting, and as the votes are rendered, it ſhall be the duty of the ſaid Commiſſioners, to take an exact poll of the names of all voters. It ſhall be the duty of the clerk of each county, to attend at the ſaid election for the Electors of a Preſident and Vice-Preſident of the United States, with the liſt of the lands as taxed therein, to be uſed by the ſaid Commiſſioners as evidence towards aſcertaining the right of any perſon to a vote. If it ſhall appear to the ſaid Commiſſioners, that the perſons entitled to vote were prevented from attending by bad weather, or from any other cauſe, they are hereby empowered and required to keep the poll open for a term not exceeding two days. So ſoon as the poll is cloſed, the ſaid Commiſſioners ſhall ſubſcribe each ſheet upon which the ſame containing the names of all the voters ſhall be taken, and alſo obtain the ſubſcription of two or more credible perſons thereto, which poll thus ſubſcribed, it ſhall be their duty to file in the clerk's office of the ſaid county or corporation, within ten days of the time of holding the election, there to be recorded according to law. The ſaid Commiſſioners ſhall, within two days after the poll ſhall be cloſed, aſcertain the number of votes given for every perſon, who ſhall be ſo voted for as an Elector: *Provided*, That until the return ſhall be ſigned by the Commiſſioners holding the elections, the tickets ſo delivered in, ſhall be kept by one of the ſaid Commiſſioners, under the ſeal and ſuperſcription of more than one, and ſhall never be opened or examined by leſs than two of the ſaid Commiſſioners. Every voter ſhall vote for one perſon reſiding in each electoral diſtrict, and in caſe any ticket ſhall contain two or more names of perſons reſiding in the ſame diſtrict, the firſt of ſuch names only ſhall be conſidered as duly voted for; and in like manner, if two or more perſons ſhall be of the twenty-one firſt upon the poll, who ſhall reſide in the ſame diſtrict, he who ſhall have the greateſt number of votes ſhall only be duly elected. The ſaid Commiſſioners ſhall, within three days after cloſing the poll as aforeſaid, make out three copies of a return in the following form: "We, A B, &c. Commiſſioners for holding the election of Electors for a Preſident and Vice-Preſident of the United States, for the county, city, or borough (as the caſe may be) of do hereby certify, that an election was held on the firſt Monday of November for the ſaid county, city, or borough, (as the caſe may be) purſuant to law, and that the number of votes herein ſpecified, oppoſite to the names of the ſeveral perſons following, was given for ſuch perſons as Electors for the ſtate of Virginia, of a Preſident and Vice-Preſident of the United States, namely, (here ſuch liſt of perſons and votes is to follow). Given under our hands and ſeals, this day of one thouſand eight hundred ." Which returns, written in words and not in figures, ſhall be ſealed and ſubſcribed by the Commiſſioners holding the election. One of the ſaid returns ſhall be delivered to ſome perſon among the twenty-one who ſhall have therein the greateſt number of votes, another ſhall be filed in the clerk's office of the county or corporation electing, and the third ſhall be tranſmitted to the Governor and Council, all of which ſhall be done within fifteen days after the ſame ſhall be made out; and the Governor and Council ſhall proceed to aſcertain from the ſaid returns, the twenty-one perſons having the greateſt number of votes throughout this ſtate, and to advertiſe their names in ſuch gazettes as they may think proper.

Proviſion in caſe of commiſſioners dead, &c.

II. IF on account of death, ſickneſs, or other cauſe, only one of the ſaid Commiſſioners ſhall attend at the time and place for holding the ſaid election, he is hereby empowered to aſſociate with himſelf as a Commiſſioner, the High Sheriff, or any Magiſtrate of the county or corporation electing, who being qualified as before directed, ſhall be as competent to act as if he had been appointed by the Governor, with the advice of Council. It ſhall be the duty of the Sheriff of every county, and of the Serjeant of every corporation, entitled to elect, to attend the ſaid Commiſſioners during the ſaid election, and to remove force, ſhould any be offered. And if any Sheriff ſhall fail in his duty as aforeſaid, or if any Commiſſioner ſhall refuſe to take the poll, being required ſo to

do, by a candidate or perſon qualified to vote, or ſhall take it contrary to this act, or ſhall make or ſign a falſe return, or ſhall falſify the poll or tickets, by eraſure or alteration, he or they ſo offending, ſhall for every ſuch offence, forfeit and pay the ſum of three hundred dollars, to be recovered with coſts in an action of debt, before any court of record, by any perſon who will ſue for the ſame. After the ſaid return ſhall be made, it ſhall be the duty of the ſaid Commiſſioners to ſeal up all the tickets or votes by them received in manner herein directed, and endorſe their names upon the cover as aforeſaid, which ſhall be preſerved by one of the ſaid Commiſſioners, and ſhall, if demanded under an order from the Governor, with the advice of Council, within ſix months of the ſaid election, be forthwith delivered under the penalty before preſcribed, in other caſes of miſconduct; but if the ſaid tickets or votes ſhall not be ſo demanded within ſix months, the Commiſſioner holding the ſame ſhall no longer be conſidered as anſwerable for them. The Governor, with the advice of the Council, is hereby empowered to defray by order on the Treaſury, all reaſonable expenſes which may attend the execution of this act, and alſo the expenſe which may be incurred in tranſmitting the ſaid returns to the Executive whereever it ſhall appear that it was neceſſary to employ a ſpecial meſſenger for that purpoſe.

III. *AND be it further enacted*, That the twenty-one perſons having the greateſt number of votes under this act, ſhall be the Electors of a Preſident and Vice-Preſident of the United States, for and on behalf of this ſtate: *Provided*, they attend for that purpoſe at the time and place directed by law. But if it ſhall happen from death, ſickneſs, or any other cauſe, or by reaſon of two or more perſons having an equal number of votes, ſo that neither appears to be elected, that twenty-one Electors do not attend on the day and at the place appointed before the hour of ten, qualified to vote for a Preſident and Vice-Preſident of the United States, on behalf of this State, it ſhall be lawful for the Senate and Houſe of Delegates of this Commonwealth, and they are hereby empowered and required to appoint forthwith by joint ballot, any perſon or perſons neceſſary to fill up any ſuch vacancy or vacancies, until the number of twenty-one Electors, for the purpoſe aforeſaid is completed, which Elector or Electors ſo appointed, ſhall be entitled to vote for a Preſident and Vice-Preſident of the United States, in the ſame manner as if he or they had been choſen in manner herein before preſcribed. Mode of deciding the election.

IV. SO much of the firſt recited act or of any other act, as comes within the purview of this act, ſhall be, and the ſame is hereby repealed. Repealing clauſe.

V. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCLV.

An Act laying Taxes for the Support of Government.

[Paſſed the 23d of January, 1800.]

I. BE *it enacted by the General Aſſembly*, That the public taxes for the year one thouſand ſeven hundred and ninety-nine, ſhall be as follows, to wit:—On lands for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every ſlave above the age of twelve years, except ſuch as have been or ſhall be exempted, by reaſon of age or infirmity, by the reſpective county or corporation courts, forty-four cents; for every ſtud-horſe and jack-aſs, twice the price at which ſuch horſe or aſs covers a mare for the ſeaſon; for all other horſes, mules, mares and colts, twelve cents each; for every ordinary licenſe, twelve dollars and fifty cents; for every four wheel riding carriage, except phætons and ſtage waggons, one dollar and twenty-five cents per wheel; for all phætons and ſtage waggons, eighty-four cents per wheel; for every other riding carriage with two wheels, forty-three cents per wheel; and for all lots and houſes in towns, one dollar and fifty-ſix cents on every hundred dollars of the rent thereof, to be aſcertained by the rent paid by the tenant, and where ſuch houſe or lot is in the occupation of the proprietor, the yearly rent or value ſhall be aſcertained by the commiſſioners of the revenue or either of them, by a compariſon of its value with other houſes or lots actually rented: *Provided*, That the owner or proprietor of any ſuch houſe or lot, if he thinks himſelf aggrieved by ſuch valuation, may appeal to the court, Taxes on land, ſlaves, &c. Proviſo.

by whom the commiſſioners were appointed, whoſe judgment as to the yearly rent or value ſhall be final. The ſaid commiſſioners or either of them to aſcertain the rent paid on houſes or lots actually leaſed, may call on the tenant or proprietor to declare on oath or ſolemn affirmation, what is the amount of the rent paid for the ſame; and every perſon ſo called on and refuſing to declare, ſhall forfeit and pay the ſum of three hundred dollars, to be recovered by motion on ten days previous notice, to be made by the commiſſioners of the revenue, or either of them. *Provided*, That no tax ſhall be collected on lands, lots, houſes, or other property belonging to this Commonwealth, or to any county, town, college, houſes for divine worſhip, or ſeminary of learning. Every covering horſe or jack-aſs which ſhall not be duly entered with the commiſſioners of the tax, and all ſuch horſes and aſſes brought into this Commonwealth, ſubſequent to the ninth of March next, ſhall be liable to a treble tax, to be paid by the owner of the place at which he ſhall ſtand, upon whom it ſhall be diſtrainable by the ſheriff, as if it had been entered in the commiſſioner's book; for two thirds whereof the ſheriff ſhall be accountable to the public, and in caſe of failure to pay the ſame, ſhall forfeit two hundred dollars, to be recovered with coſts, on motion after ten days notice by the Auditor, for the uſe of the Commonwealth; *Provided*, That any perſon ſo bringing ſuch horſe or aſs into the ſtate, entering him with the commiſſioner within ten days thereafter, and paying the tax to which he would have been liable, had he been duly entered, to the ſheriff or collector, ſhall be abſolved from the ſaid penalty, and the ſaid commiſſioners ſhall ſubjoin the ſaid horſe or aſs to the liſt of taxables.

Public property exempted from tax.

Licenſes to merchants ſelling goods, wholeſale or retail.

II. *AND be it further enacted*, That upon any perſon's producing to the commiſſioner of the revenue for the county, diſtrict, or corporation, a receipt for the ſum of forty dollars paid to the ſheriff or collector, ſuch commiſſioner ſhall grant to ſuch perſon a licenſe to ſell merchandize of foreign growth or manufacture, by wholeſale and retail, for and during the term of twelve months; or if the ſaid receipt ſhall be for fifteen dollars, ſuch perſon ſhall, in like manner, receive a licenſe to retail ſuch goods for the ſame time. And if any perſon ſhall ſell ſuch merchandize either by wholeſale or retail, on land or on board any veſſel, without having obtained ſuch licenſe, ſuch perſon ſhall forfeit and pay five hundred dollars, to be recovered by the commiſſioner in any court of record, on ten days previous notice, and to be paid to the ſheriff for the uſe of the Commonwealth; of which licenſes and fines the commiſſioners ſhall annually in their books, return a liſt to the Auditor of the public accounts, on or before the fifteenth day of September, ſpecifying names, which ſhall be good evidence whereupon to charge the ſheriff or collector. *Provided nevertheleſs*, That not above one tax ſhall be paid on account of ſo ſelling at one and the ſame ſtore, and if any perſon ſhall poſſeſs two or more ſtores, he or she ſhall pay one tax for each ſtore. *And provided alſo*, That nothing contained in this or any other act ſhall be ſo conſtrued as to impoſe a tax on planters or farmers for ſelling ſalt or iron to their neighbours, purchaſed as a return load for their produce, carried in their waggons or otherwiſe to market. All the ſaid licenſes ſhall be taken out previous to the firſt day of May next, and ſhall be good and effectual for and during the term of one year. *Provided*, That if any new ſtore ſhall be opened on land between the ſaid firſt day of May, and the ſame day in the following year, the ſaid tax ſhall be apportioned according to the time then to come of one year, and its amount ſhall be ſpecified in the licenſe, and in the commiſſioner's return.

Penalty on dealing without ſuch licenſe firſt obtained.

Proviſo.

Concerning hawkers and pedlars.

III. *AND be it further enacted*, That the act concerning hawkers and pedlars ſhall be ſo conſtrued, as to make it neceſſary for each hawker and pedlar, to obtain a licenſe.

Licenſes granted to hawkers and pedlars to be recorded.

IV. *BE it further enacted*, That each hawker and pedlar, after obtaining a licenſe to ſell goods, wares, and merchandize, ſhall in the court of each county, at the courthouſe of which he offers goods for ſale, enter of record his licenſe, obtained for vending goods, wares, and merchandize, for which he ſhall pay twenty-five cents to the clerk, and the clerk of each court ſhall keep a liſt of ſuch licenſes granted to hawkers and pedlars, and recorded, ſtuck up in ſome public place in the courthouſe, expreſſing when the licenſe was granted, when they will expire, and by what court they were granted, from their April court to the end of the year: And in caſe of failure, each hawker or pedlar ſhall be ſubject to the ſame penalty as if he had no ſuch licenſe. For every licenſe granted by a commiſſioner under this act, he ſhall be entitled to twenty-five cents,

Allowance to commiſſioner for iſſuing ſuch licenſe.

which shall be paid to him out of the public treasury, on warrant of the Auditor of public accounts, after his list of licenses shall be returned to the Auditor as aforesaid. Clerks of courts shall annually, on or before the first day of October, return to the Auditor a list of all hawkers' and pedlars' licenses granted by their respective courts, previous to the first day of September in every year, and every clerk neglecting this duty, shall forfeit fifty dollars, to be recovered in the General Court, by motion on ten days previous notice. The clerks of courts shall also on or before the fifteenth of December in every year, account on oath to the Auditor of public accounts for all taxes received by them, by virtue of their offices, previous to the first day of September in such year. So much of the act passed at the last session, intituled, "An act to impose certain taxes on law process, and for other purposes," as is contrary hereto, shall be and is hereby repealed.

Clerks of courts to return a list of pedlars' licenses to the Auditor.

V. AND for the more effectual collection of the taxes as aforesaid, and others, which may become due to the commonwealth, *Be it further enacted*, That ten days previous notice shall hereafter be necessary to any sheriff, collector, clerk, inspector, or notary public, for the purpose of recovering a judgment for any taxes, fine, or public dues of any kind, where by law the auditor is authorised to proceed against them, or any of them, by motion. No sheriff or other collector shall at any time be allowed to return any list of insolvents, or have any credit therefor, after twelve months shall have expired, from the period of the taxes becoming payable by such sheriff or collector, to which such list relates. A commission of five per cent. and no more shall be allowed to sheriffs and collectors for the collection of the taxes on licenses to be granted to merchants under this act, and on licenses to be granted to hawkers and pedlars, under an act, intituled, "An act concerning hawkers and pedlars;" any law to the contrary notwithstanding. A list of all licenses granted to merchants shall be returned by the commissioner granting the same, to the county or corporation courts for their examination, after which the said lists shall be delivered to the sheriffs or collectors, who shall annually, on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Notices on motions against sheriffs and other officers herein mentioned.

Commission allowed for collecting tax on licenses.

Commissioner to return list of licenses to county or corporation court for examination.

VI. THIS act shall commence and be in force from the passing thereof.

Commencement of this act.

CHAP. CCLVI.

An Act to enable Clerks of Courts to Administer Oaths in certain cases.

[Passed the 6th of January, 1800.]

I. BE *it enacted*, That the several clerks of courts of this commonwealth, and their deputies be, and they are hereby empowered to administer oaths in all cases wherein an affidavit is necessary as the foundation of any official act to be performed by any such clerk, which affidavit shall be filed, and shall in every respect be as effectual as if the oath thereto had been administered by a justice of the peace. And if any person sworn by any clerk or his deputy, by virtue of this act, shall give any evidence under such circumstances as would have constituted the same to be perjury, if done in presence of a court of record, the same shall be deemed perjury to all intents and purposes.

Clerks of courts authorised to administer oaths in certain cases.

II. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this Act.

CHAP. CCLVII.

An Act concerning the Service of certain Process, and the returns thereon.

[Passed the 28th of January, 1800.]

I. BE *it enacted by the General Assembly*, That where any sheriff or other officer shall return on any original or mesne process to him directed, that he has been kept off by force of arms, it shall and may be lawful for the plaintiff in the action in which the process so returned was issued, either to issue an alias or pluries, as the case may be, or to proceed in the said action against the defendant or defendants, as if such process had been returned executed.

II. THIS act shall be in force, from and after the passing thereof.

CHAP. CCLVIII.

An Act to repeal the Act authorizing the Executive to remit the Damages and Fines incurred by Sheriffs and Collectors, in certain cases.

[Passed the 4th of January, 1800.]

The act authorizing the Executive to remit damages, &c. repealed, &c.

I. BE it enacted, That the act of Assembly, intituled, "An act authorizing the Executive to remit the damages and fines incurred by sheriffs and collectors, in certain cases," shall be and the same is hereby repealed; except in such cases the Executive shall be authorized to remit damages or fines incurred by sheriffs or collectors before the twenty-third day of December, in the year one thousand seven hundred and ninety-four, on the terms in the said above recited act set forth and contained. *Provided nevertheless*, That

The court before whom the motion is made may remit damages, &c. against sheriffs, &c. when to remit the same again.

when a motion is made by the attorney for public accounts against any delinquent sheriffs or collectors, and notice as heretofore required being first given, the court in pronouncing judgment upon the case, shall and may take into consideration all circumstances which may, in their opinion, entitle the party to a remission of damages, and give judgment for the same or not, as they may think proper.

The 5th section of the act laying taxes repealed.

II. *AND be it further enacted*, That the fifth section of the act, intituled, "An act laying taxes for the support of government," shall be, and the same is hereby repealed.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLIX.

An Act to amend the Act, intituled, An Act concerning the Election of Members of General Assembly.

[Passed the 6th of January, 1800.]

Preamble.

WHEREAS in the act, intituled, "An act concerning the election of the members of the General Assembly," no provision is made for holding an election in case of the death of the high sheriff, whereby many of the good people of this Commonwealth are sometimes unrepresented; for remedy whereof,

Elections, by whom to be held in case of the high sheriff's death.

I. *BE it enacted by the General Assembly*, That in all cases whatsoever where by law the sheriff is directed to hold an election, in case of the death of the said sheriff, the senior magistrate, and in his absence, inability, or incapacity by being a candidate, the second, and so on in succession to the junior magistrate, is hereby authorised, empowered, and required to perform the duties of the sheriff prescribed by law in similar cases.

Penalties on magistrates refusing to act.

II. *AND be it further enacted*, The said magistrates, in case of refusal, shall be subject to all the penalties to which sheriffs are liable, and shall be entitled to the same compensation.

Repealing clause.

III. ALL acts within the purview of this act, are hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLX.

An Act concerning Attornies, and for other purposes.

[Passed the 25th of January, 1800.]

State attornies how appointed.

I. BE it enacted, That attornies to prosecute on behalf of the Commonwealth, shall hereafter be appointed in the district and all other inferior courts of this commonwealth, by an order of such courts respectively, which said attornies shall be entitled to recover of delinquents the fees allowed by law, and moreover the attornies for the commonwealth in the district courts, shall be allowed the salary as now fixed by law, and every such attorney in the county or corporation courts, shall be allowed a reasonable sum for their services, and for which no other fee or reward is allowed by law, as heretofore annually to be levied by such court, on the county or corporation.

Auditor not to allow attornies claims.

II. *AND be it further enacted*, That it shall not hereafter be lawful for the auditor of public accounts to allow the claim of any attorney for any county

or corporation court, for any ſervices to be performed by him therein; and that all laws within the true intent and meaning of this act, ſhall be, and the ſame are hereby repealed.

III. THIS act ſhall commence and be in force from and after the paſſing thereof. Commencement of this act.

CHAP. CCLXI.

An Act to Increaſe the Wages of the Members of the General Aſſembly for the preſent and all future Seſſions.

[Paſſed the 13th of January, 1800.]

WHEREAS it is found by experience that the wages of the members of the preſent General Aſſembly, are inſufficient for their ſupport: Preamble.

I. *BE it therefore enacted*, That the wages of the members of the General Aſſembly, ſhall be for the preſent and future ſeſſions, three dollars per day, and milage as heretofore. Wages of the members three dollars.

II. THIS act ſhall commence and be in force, from and after the paſſing thereof. Commencement of this act.

CHAP. CCLXII.

An Act for confirming and eſtabliſhing the Boundary Line between this State and the State of Kentucky, aſcertained and fixed by certain Commiſſioners appointed by both States, and for other purpoſes.

[Paſſed the 13th of January, 1800.]

WHEREAS the commiſſioners appointed to aſcertain and adjuſt the boundary line between this ſtate and the ſtate of Kentucky, in conformity to the act of ſeparation between the two ſtates, have proceeded to the execution of the ſaid buſineſs, and made a report thereof in the words following, to wit:—"The commiſſioners for aſcertaining and adjuſting the boundary line between the ſtates of Virginia and Kentucky, appointed purſuant to the act of ſeparation between the two ſtates, to wit: Archibald Stuart, General Joſeph Martin, and Creed Taylor, Eſquires, on the part of the former, and John Coburn, Robert Johnſton, and Buckner Thruſton, Eſquires, on the part of the latter, having this day met at the Forks of Great Sandy river, according to appointment, and taken into conſideration the ſaid act of ſeparation, have, and by theſe preſents do, unanimouſly, agree and declare, that the boundary line between the ſaid ſtates, is, and ſhall be, and remain as followeth, to wit: To begin at the point where the Carolina, now Tenneſſee line croſſes the top of the Cumberland Mountain, near Cumberland Gap; thence north-eaſtwardly along the top or higheſt part of the ſaid Cumberland Mountain, keeping between the head waters of Cumberland and Kentucky rivers, on the weſt ſide thereof, and the head waters of Powell and Gueſt's rivers, and the pound fork of Sandy, on the eaſt ſide thereof, continuing along the ſaid top or higheſt part of ſaid mountain, croſſing the road leading over the ſame at the Little Paint Gap, where by ſome it is called the Hollow Mountain, to where it terminates at the weſt fork of Sandy, commonly called Ruſſel's Fork; thence with a line to be run north forty-five degrees eaſt, till it interſects the other great principal branch of Sandy, commonly called the north-eaſtwardly branch; thence down the ſaid north-eaſtwardly branch to its junction with the main weſt branch, and down Main Sandy, to its confluence with the Ohio." And whereas Brice Martin and Hugh Fulton, the ſurveyors appointed by the ſaid commiſſioners to run and mark the ſaid line, did, on the ſecond day of November, one thouſand ſeven hundred and ninety-nine, certify, that they did run the ſame, beginning at a red oak, white oak, and two pines, marked V. K. on each, ſtanding on a high cliff, where the ſaid Weſt or Ruſſel's fork of Sandy runs through the ſaid Cumberland Mountain, near the mouth of a branch; thence with the ſaid courſe to the ſaid principal branch of Sandy, commonly called the north-eaſtwardly branch, eight thouſand ſix hundred and forty poles to a poplar, black gum, and two ſpruce pines, each marked with the letters V. K. and that they had alſo marked the trees on the ſaid line with four chops in the form of a diamond. And whereas it is deemed proper and expedient that the ſaid Report of the commiſſioners. Surveyors certificate.

boundary line so fixed and ascertained as aforesaid, should be established and confirmed on the part of this Commonwealth:

Boundary line between Virginia & Kentucky.

I. *BE it therefore enacted by the General Assembly of the Commonwealth of Virginia*, That the said boundary line between this state and the state of Kentucky, as laid down, fixed, and ascertained by the said commissioners above named, in their said report above recited, shall be, and is hereby fully and absolutely, to all intents and purposes whatsoever, ratified, established, and confirmed on the part of this Commonwealth, as the true, certain, and real boundary line between the said states.

Report of the commissioners respecting certain entries and locations.

II. AND whereas the said commissioners have made a further report to the present General Assembly, in the words following, to wit: "And whereas doubts have heretofore prevailed, which of the main branches of Sandy the act for dividing the county of Fincastle, (which is the act referred to for the line between the two states) meant and intended that the line should run up, and locators have been led into errors in entering their land warrants, it is therefore further unanimously agreed between the said commissioners, that no land claims founded on entries within the forks of Sandy, or east of the Cumberland Mountain, on the waters of Sandy, previous to the first day of October, one thousand seven hundred and ninety-nine, on either side of the before mentioned line, to be run from the end of the said Cumberland Mountain, to intersect the said main north eastwardly branch of Sandy, ought to be in any wise affected by the said doubts which have existed respecting the said line, but that the said claims ought to remain valid and secure, as if no such doubts had existed, or as if the territory had been within the acknowledged limits of either state, that is to say, that all entries of land made in the offices of either state, which by this adjustment of the line falls into the other, shall be as valid as if made in the offices of that state in which the land lies, and that it be recommended to the said states to pass mutual laws for the ratification of the said claims, pursuant to the meaning and intent of this agreement between us, and that until such laws shall be passed, this instrument shall not be in force, but shall take full effect immediately after the passage of such laws." And whereas it is deemed also proper and expedient to confirm and validate all such entries above mentioned, in conformity to the recommendation of the said commissioners, in their said report last above recited: *Be it further enacted by the authority aforesaid*, That all claims for entries of lands made by any person or persons, in any surveyor's offices in the state of Kentucky, since the separation thereof from this state, which said lands by means of the adjustment and establishment of the said line above mentioned, have fallen into this state, shall be as valid and sufficient to the several claimants under such entries to all intents and purposes, as if the same had been made in the proper surveyors' offices of this state; any thing in any law contained to the contrary, notwithstanding.

Entries made in Kentucky of lands which fall into this state, valid.

Commencement of this act.

III. THIS act shall commence and be in force, from and after the passing of a like law on the part of the state of Kentucky.

CHAP. CCLXIII.

An Act concerning the Militia of this Commonwealth.

[Passed the 28th of January, 1800.]

Arms to be distributed to the militia by the executive.

I. FOR the purpose of arming the militia of this Commonwealth, *Be it enacted*, That the Executive be, and they are hereby authorized and directed to distribute without delay amongst the several regiments of militia, according to their strength as ascertained by the last returns of each, two thirds of all the arms and accoutrements belonging to the state, as well those on hand as those that may hereafter be procured under appropriations already made by law: *Provided*, That before the delivery thereof, they shall cause each musket and cartridge box to be stamped with the name of the county and number of the regiment to which they may be allotted.

Officers to give receipts for the arms.

II. *AND be it further enacted*, That it shall be the duty of each and every officer commanding a regiment to receive such arms and accoutrements when they shall be offered, and grant a receipt therefor to the governor, for the time being, describing their condition at the time of such receipt, and shall moreover deliver the same to the officers commanding battalions in such regiment, in like proportion. And it shall be the duty of officers commanding battalions

reſpectively, to receive all ſuch arms and accoutrements, and grant a receipt therefor to the officer commanding the regiment, ſtating their condition at the time of ſuch delivery, and ſhall moreover deliver the ſame to the ſeveral officers commanding companies in the reſpective battalions, in due proportion, according to the number of men belonging to ſuch companies. It ſhall be the duty of each officer commanding a company to receive the ſame, and grant a receipt therefor to the officer commanding the battalion, deſcribing in like manner the condition of ſuch arms, and ſhall moreover deliver the ſame into the hands of his non-commiſſioned officers and privates, in ſuch manner as may be directed by the commanding officer of the regiment; and it ſhall be the duty of all non-commiſſioned officers and privates to receive ſuch arms when they ſhall be offered, and grant a receipt for the ſame, making themſelves liable for the ſafe-keeping thereof, and for their delivery when legally called on for that purpoſe.

Militia to keep their arms in good order.

III. IT ſhall be the duty of all perſons in the militia who receive into their poſſeſſion public arms, according to the direction of this act, to keep the ſame in neat and good order, the muſket, barrel and bayonet free from ruſt, and bright, the lock clean, well oiled, and with a good flint, and to appear with ſuch arms at every muſter, where by law they are obliged to appear, and at all other times when they may be called on duty; and at all muſters the officers in their reſpective ſtations, ſhall be diligent and careful in training and inſtructing their men, and inſpecting their arms, in noting delinquencies, and making report thereof as herein after directed.

Militiaman removing or arriving to 45 years of age, to return his arms

IV. IF any perſon in the militia poſſeſſed of public arms as aforeſaid, ſhall be about to remove out of the limits of his regiment, or during ſuch poſſeſſion arrive at the age of forty-five years, or in any other manner have right to be diſcharged from militia duty, every ſuch perſon before ſuch removal, or before he ſhall be entitled to any ſuch diſcharge, ſhall deliver to the officer commanding the company to which he belongs in good order and unimpaired, ſuch public arms as may have been delivered to him, and if any perſon ſo poſſeſſed ſhall die, it ſhall be the duty of the officer commanding the company to which he belonged, immediately to take poſſeſſion of ſuch arms, inſpect, and take care of them in the manner herein after directed, to be delivered to ſome other perſon in his company in manner before directed.

Officers to recover arms embezzled or removed.

V. IT ſhall be the duty of officers commanding companies, within ten days after each muſter which he ſhall have, to make return of his company to the major commanding the battalion, reporting all delinquencies that happen at ſuch muſter, and if at any time it ſhall come to his knowledge, that any one of his company has embezzled or diſpoſed of his arms, or has removed out of the limits of his regiment, without delivering them up as herein before directed, in all ſuch caſes, it ſhall be his duty immediately to proceed by and under the authority of a warrant according to law, iſſuing from any juſtice of the peace of the county or counties, where ſuch arms, or any part thereof, are ſuppoſed to be, to regain the poſſeſſion of ſuch arms wherever the ſame may be found; and it ſhall moreover be the duty of ſuch captain to proceed, as is herein after directed, to bring to puniſhment according to this act, every perſon offending in the diſpoſing, buying, or concealing ſuch arms.

Penalties on officers for failure or neglect of duty herein.

VI. AND for enforcing obedience to this act, *Be it enacted*, That the following forfeitures and penalties ſhall be incurred for delinquencies, that is to ſay; by a commanding officer of a regiment, for failing or refuſing to receive the arms for his regiment and delivering them out as directed, for each and every ſuch offence or neglect, ſhall forfeit and pay a ſum not exceeding five hundred dollars; by a commanding officer of a battalion, for failing to do any of the duties required by this act, for each and every ſuch neglect, ſhall forfeit and pay a ſum not exceeding two hundred and fifty dollars; by any captain or commanding officer of a company, for failing to receive any arms, or to give receipts therefor, failing to diſtribute them according to this act, and take receipts for the ſame, to make any report concerning the ſaid arms, to deliver the ſame according to this act, for each and every ſuch offence, neglect, or failure, he ſhall forfeit and pay a ſum not exceeding fifty dollars; by a ſubaltern officer failing to do any of the duties herein required of his captain, in caſe of his abſence, for each and every ſuch offence, failure, or neglect, ſhall forfeit and pay a ſum not exceeding fifty dollars, to be adjudged of and determined by their reſpective regimental courts of enquiry; by any non-commiſſioned officer or private, for refuſing to receive any arms when offered, for failing to keep

the same in order, as directed by this act, to return the same when legally required, for each and every such offence, failure, or neglect, shall forfeit and pay a sum not exceeding one dollar.

Penalty for transferring or purchasing public arms.

VII. *AND be it further enacted*, That any non-commissioned officer or soldier, who shall attempt to transfer a right to the said arms in his custody, or to any part thereof by sale or otherwise, to any person or persons, accompanied by actual delivery, as well every person so offending, as every person purchasing or concealing the said arms, knowing the said arms to be the property of the public, shall forfeit and pay for each offence the sum of fifteen dollars, to be recovered in the name of the commonwealth, by motion in any court of record within this state, provided such person, his agent or attorney shall have ten days previous notice of such motion; and the right of the commonwealth to such arms shall not by such or any other mode of transfer, be impaired or taken away.

Troops of artillery, &c. to be armed agreeably to their numbers.

VIII. AND whereas the several companies of artillery, grenadiers, light infantry, riflemen, and troops of cavalry, are allotted into battalions or entire companies and troops, *Be it therefore enacted*, That the governor shall cause them to be armed by entire troops and companies, agreeable to their respective numbers, beginning at number one in each regiment, as soon as the arms necessary for that purpose can be obtained; and they shall be subject to the same rules and regulations, for the safe keeping the said arms, as are prescribed by this act to the rest of the militia.

Sheriffs to return lists of insolvencies when collecting militia fines.

IX. *AND be it further enacted*, That it shall be the duty of sheriffs who have or may undertake the collection of militia fines, to return before the next succeeding regimental court of enquiry, after receiving a list of such fines, a list of all insolvencies within such regiment, to be examined by the said court, who shall judge of such insolvents, and shall direct their clerk to certify a part or the whole of any such list, as to them shall seem just. For the amount of which list so certified, the sheriff shall be allowed a credit in settling his account with the auditor.

X. *AND be it further enacted*, That the sheriffs shall be allowed till the fifteenth day of December in each year, to settle up his said account with the auditor.

XI. THAT all charges and expenditures necessary for carrying this act into effect, shall be paid out of any money in the public treasury.

CHAP. CCLXIV.

An Act supplemental to the Act to amend the Penal Laws of this Commonwealth.

[Passed the 25th of January, 1800.]

Punishment for offences not therein provided for after the act amending the penal laws shall commence in force.

I. BE *it enacted and declared by the General Assembly of Virginia*, That from and after the period when the act, intituled, "An act to amend the penal laws of this commonwealth," shall commence and be in full force and operation, if any free person shall be convicted (either as principal or accessory) of any felony or offence whatsoever, not already provided for by the said recited act, the punishment whereof by the laws in force at and before the commencement of the said recited act, may amount to death, without the benefit of clergy, every such offender from whom the benefit of clergy would have been taken away, shall be sentenced to undergo a confinement in the jail and penitentiary house, established by the said recited act, for a period not less than one, nor more than ten years, and shall be kept therein at hard labour, or in solitude, and in all other respects be treated as in and by the said recited act is directed.

Called courts failing to meet, recognizances to stand continued till next court in course.

II. AND whereas the method heretofore observed in calling courts for the examination and trial of criminals in the counties and corporations of this commonwealth, has been found inconvenient and expensive, and sometimes to obstruct public justice: For remedy whereof, *Be it further enacted and declared by the General Assembly*, That hereafter when any free person or slave shall be committed to jail, by any justice of the peace of any county or corporation for examination or trial, and the court summoned by the sheriff for the examination or trial of such free person or slave, shall fail to meet as heretofore prescribed by law, all the recognizances entered into by any person or persons to appear at such called court, shall stand obligatory to the next court of such county or corporation, and every such person or persons shall be obliged to appear accordingly, and that such examination or trial shall be at the next court

to be held for such county or corporation, which court shall be composed of the same number of justices as are now required by law; any thing in this or any other act to the contrary notwithstanding.

III. THIS act shall commence and be in force so soon as the act herein before mentioned and recited, shall, by virtue of the Governor's proclamation, commence and be in operation. Commencement of this act.

CHAP. CCLXV.

An Act concerning the Junior Clerk in the Auditor's Office.

[Passed the 22d of January, 1800.]

I. BE *it enacted by the General Assembly*, That the junior clerk in the Auditor's office shall hereafter be entitled to receive for his services annually, the sum of five hundred dollars, to be paid as heretofore in quarterly payments. Salary of the junior clerk in the auditor's office.

II. THIS act shall commence and be in force from and after the passing thereof. Commencement of this act.

CHAP. CCLXVI.

An Act authorizing the Governor of this Commonwealth to convey to the United States, upon certain conditions, the Property of this Commonwealth called Gosport.

[Passed the 25th of January, 1800.]

WHEREAS it has been represented to the present General Assembly, that the government of the United States are desirous that certain lands, the property of this Commonwealth, commonly called and known by the name of Gosport, should be vested in the United States, for the purpose of establishing a navy yard on the same: Preamble.

I. *BE it enacted by the General Assembly*, That it shall and may be lawful for the Governor of this Commonwealth, and he is authorized to appoint some fit and proper person, to meet such person as shall be appointed on the part of the United States, to ascertain and fix the value of the property belonging to this Commonwealth, situate near the town of Portsmouth, in the county of Norfolk, commonly called and known by the name of Gosport. So soon as the value of the property shall be ascertained and the Governor shall be satisfied that the Government of the United States are willing to pay the amount thereof to this Commonwealth, then and in that case it shall be lawful for the Governor of this Commonwealth, and he is hereby authorized for, and in behalf of this Commonwealth, by proper deeds in writing, under his hand and the seal of the Commonwealth, to convey, transfer, assign and make over unto the United States, all interest in, and title to, as well as all the jurisdiction which this Commonwealth possesses over the public lands commonly called and known by the name of Gosport before mentioned, for the purpose of establishing a navy yard: *Provided*, That nothing herein contained shall be so construed as to prevent the officers of this state from executing any process whatever within the jurisdiction hereby directed to be ceded. Governor to convey Gosport to the United States on certain conditions.

II. *AND be it further enacted*, That in case the government of the United States shall at any time hereafter abandon the design of establishing a navy-yard at the place hereby ceded to the United States, or after the establishment thereof shall discontinue the same, then and in that case the property in the soil, and the jurisdiction over the territory hereby directed to be vested in the United States, shall revert to this Commonwealth, and shall be considered as the property and subject to the jurisdiction of the same, in like manner as if this act had never been made: *Provided*, That in such case this Commonwealth will repay to the government of the United States, the sum or sums paid by the United States in consideration of the cession hereby directed to be made.

III. THIS act shall commence and be in force from and after the passing thereof.

General Assembly, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 1st day of *December*, in the Year of our Lord, 1800.

CHAP. CCLXVII.

An Act to amend the act, intituled, "An act, to amend an act, intituled an act, for appointing Electors to choose a President and Vice-President of the United States."

[Passed the 2d of December, 1800.]

Senate and House of Delegates authorized to supply the vacancies occasioned by the absence of electors chosen by the people.

I. BE *it enacted by the General Assembly*, That if any one or more of the electors chosen by the people under the authority of the act, intituled an act, to amend an act, intituled an act for appointing electors to choose a president and vice-president of the United States, shall from any cause whatever, fail to attend at the place appointed by the said act for the meeting of the electors at three o'clock in the afternoon of this the second day of December, one thousand eight hundred, it shall then be lawful for the Senate and House of Delegates, and they are hereby required by joint ballot to proceed to supply such vacancy or vacancies until the number of twenty-one electors for the purpose aforesaid is completed, which elector or electors so appointed shall be entitled to vote for a President and Vice-President of the United States in the same manner as if he or they had been chosen in the manner prescribed by the said law.

The electors so chosen to be superseded by the attendance of those chosen by the people.

II. *PROVIDED nevertheless*, That if any elector or electors chosen by the people under the authority of the act aforesaid, shall attend at or before the hour of ten in the morning of to-morrow, then the appointments made under this act for the purpose of supplying such supposed vacancy, shall be void and of no effect.

Repealing clause.

III. SO much of the above recited act as comes within the purview of this act, shall be, and the same is hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLXVIII.

An Act to amend an act, intituled, "An act, to reduce into one the several acts concerning Mills, Milldams, and other obstructions of Water Courses.

[Passed the 18th of December, 1800.]

Preamble.

WHEREAS doubts have arisen in the construction of the 15th section of the act, intituled, "An act to reduce into one the several acts concerning Mills, Mill-dams, and other obstructions of water courses," passed the 21st day of December, 1792:

Clerk of the county to advertise all applications for removing obstructions.

I. *BE it enacted by the General Assembly*, That in all cases of petition or application to the court of a county for the removal of obstructions across rivers and creeks, the clerk of the said court by order thereof shall issue a notification to all the magistrates of said county, and also advertise at the courthouse door, the day such application or petition will be decided upon. Two-thirds of the magistrates in each county shall be requisite to constitute a court for the trial or hearing such petition or application, a majority of whom are hereby empowered to contract with any person or persons for clearing the same, and to levy so much money in their county levy as shall be sufficient to discharge such agreement or contract.

Two thirds of the magistrates requisite for a decision.

Repealing clause.

II. ALL acts and parts of acts containing any thing within the purview of this act, shall be and are hereby repealed.

Enacting clause.

III. THIS act shall commence and be in force, from the passing thereof.

CHAP. CCLXIX.

An Act to authorize the Commissioners of the Revenue to re-assess Lands in certain cases.

[Passed the 23d of December, 1800.]

In what cases lands may be re-assessed, or a divi-

I. BE *it enacted by the General Assembly*, That where any person shall hereafter die seized of any tract of land, the whole of which might have

been assessed by the commissioner of the county wherein the same lies at an equal rate, but which when divided among the heirs or devisees of the decedent shall contain some one or more parcel or parcels of a quality inferior to that of the other parcel or parcels, the heir or devisee or heirs or devisees, or his, her, or their guardian or guardians, as the case may be, to whom the parcel or parcels of such inferior quality may be allotted, may apply to the commissioner within whose district such parcel or parcels may lie, to make a re-assessment of the same, the said commissioner on such application shall and he is hereby required forthwith to go upon the parcel or parcels of land proposed to be re-assessed, and according to the best of his skill and judgment apportion the tax originally assessed upon the entire tract of land, amongst the holders of the different parcels, having due regard to the relative value of the same, and thereupon proceed to charge them in his book of the land tax with their respective proportions of the tax of such land according to the apportionment by him made. tion among heirs.

II. *AND be it further enacted*, That if any person shall be seized of any tract of land as aforesaid and shall alienate the same to different alienees or a part thereof to one or more persons by which some one or more parcel or parcels shall be inferior in value to the other parcel or parcels, the alienor or alienee as the case may be, who shall have right to the parcel or parcels of such inferior value may have the same relief, and the commissioner of the district wherein the land lies shall perform the same duties as are herein before provided in the case of heirs or devisees. *Provided nevertheless*, that any party or parties who shall think themselves aggrieved by such reassessment, may require the commissioner to go again on the land with such persons as the parties or their representatives may choose, there being only one person for each different parcel of land, who may review the commissioner's valuation, and if they or a majority of them agree, their valuation shall be final, but if divided, the valuers may call in an umpire whose opinion shall be final. And the commissioner shall charge the same in his book so as he make it correspond with the decision of such referees or umpire. When they may be re-assessed among the alienees of the original holder. Proviso.

III. THE person or persons making application to the commissioner for such purpose, shall pay to him fifty cents for each parcel of land by him so valued and reassessed. Commissioner's fee.

IV. THIS act shall commence and be in force from the passing thereof. Enacting clause.

CHAP. CCLXX.

An Act to regulate Costs in certain Cases.

[Passed the 25th of December, 1800.]

I. BE *it enacted by the General Assembly*, That any officer who shall levy distress for rent, shall be entitled in case the property be replevied, to the same commissions as in case of a forthcoming bond taken under any writ of execution for the like sum, and may include such commission in every bond taken under such distress. And in all cases where the county or corporation courts are authorised to render judgments or award of execution upon motions, fifty cents shall be taxed in the bill of costs for each notice proven to have been delivered in case the plaintiff or plaintiffs succeed. And it shall be the duty of the sheriff or other officer to give notices upon the bonds aforesaid in every case if required by the plaintiff or plaintiffs, his or their agent or attorney. Fee to officer when the property is replevied. Fee for notice.

II. THIS act shall commence and be in force, from and after the passing thereof. Enacting clause.

CHAP. CCLXXI.

An Act to Extend the Jurisdiction of Justices of the Peace.

[Passed the 16th of January, 1801.]

I. BE *it enacted by the General Assembly*, That when the cause of action shall not exceed ten dollars, or four hundred pounds of Tobacco, the same is declared to be cognizable, and finally determinable by any one justice of the peace who may give judgment, and thereupon award execution against the goods and chattels of the party against whom such judgment shall be given, which shall be executed and returned by the sheriff or constable to whom direct- Jurisdiction extended to ten dollars.

ed, under the penalty of ten dollars, to be recovered by the party grieved; but no execution shall issue by any justice awarded against the body of the defendant.

Exception. II. ALL petitions which may be brought by the first day of April next, for any sum less than ten dollars, or four hundred pounds of Tobacco, shall be tried and determined as heretofore; and executions may thereupon issue.

Repealing clause. III. ALL laws within the meaning of this shall be repealed.

Limiting clause. IV. THIS act shall be in force from the first day of April next.

CHAP. CCLXXII.

An Act concerning Patroles.

[Passed the 16th of January, 1801.]

By whom to be ordered out. I. BE *it enacted by the General Assembly*, That any justice of the peace shall have power to order out Patroles when to him it shall appear necessary, and may on particular occasions appoint an officer of patrol, who shall have the same powers, and receive the same pay, as the patrol appointed by the commanding officer of the battalion. Any officer or patrol, so ordered out by a Magistrate, failing to attend and do his duty, shall forfeit and pay, the officer three dollars, and the patrol one dollar, each; to be recovered and applied in the same manner as other militia fines.

Regulation in Petersburg. II. *AND be it further enacted*, That the court of the corporation of Petersburg shall have power to divide the militia, residing within the limits of said town, into wards or districts, and may appoint one or more officers in each ward, to be denominated captains of patrol; each officer shall be compelled, when on duty, to visit all parts of said town, and shall patrol once in every week (or oftener if required by the court,) and shall receive for every twelve hours service, the officer one dollar, and each patrol seventy-five cents, to be levied on the house keepers in said town. The militia of said town shall be exempted from patrol duty without the limits of the town; but in all other services, required by law, shall continue attached to their respective regiments.

Watch in Fredericksburg. III. *AND be it further enacted*, That the corporation court of Fredericksburg shall be, and is hereby empowered, to impose and levy an annual tax upon the house keepers within the jurisdiction thereof, to be appropriated to paying a watch to be kept therein.

Limiting clause. IV. THIS act shall commence and be in force from the passing thereof.

CHAP. CCLXXIII.

An Act to Prevent the Killing of Deer, within certain Periods annually.

[Passed the 16th of January, 1801.]

Penalty for killing deer within certain periods. I. BE *it enacted by the General Assembly*, That if any free white person, or persons, within this Commonwealth, by shooting, trapping, hunting, ranging, driving with dogs, or otherwise, shall kill or destroy any one or more deer, (the same not being his own tamed, or shall be found in possession of any) between the first day of January, and the first day of August, in any year, every such free white person, or persons, so offending, for every deer so killed or destroyed, shall forfeit and pay the sum of five dollars, to be recovered, with costs, by warrant, before a justice of the peace of the county where the offence shall have been committed, or the offender or offenders may reside, to the use and benefit of the informer, provided the offence be proved by the confession of the party, or by the oath of one or more credible witness or witnesses, other than the informer; but if the offence should be established by the oath of the informer only, in that case the said forfeiture shall be payable to the Overseers of the poor of the county where the conviction shall have been, and applied towards lessening the poor rates thereof. *And be it further enacted*, That if any white person, free negro, or mulatto, shall be guilty of the like offence, and be thereof duly convicted before a justice of the peace, of the county where the offence shall have been committed, or the offender resides, the said offender shall forfeit and pay to the informer, or to the Overseers of the poor, as the case may be, the sum of five dollars, and costs; and in case of inability, or refusal

to pay, shall, by order of the said justice of the peace, receive not less than ten, nor more than twenty, lashes on his bare back.

II. THAT if any slave shall be guilty of the like offence, and be thereof lawfully convicted before any justice of the peace, of the county where the offence shall have been committed, or the master or owner of such slave resides, such slave shall, by order of the said justice of the peace, receive on his bare back not less than ten, nor more than twenty, lashes. Penalty on 2d vet.

III. *AND be it further enacted*, That nothing herein contained shall be construed to extend to any of the counties west of the Allegany mountain. Restriction of this act.

IV. THIS act shall commence and be in force from and after the passing thereof. Enacting clause.

CHAP. CCLXXIV.

An Act to empower the Governor to transport Slaves condemned, when it shall be deemed expedient.

[Passed the 15th of January, 1801.]

I. BE *it enacted by the General Assembly*, That the governor with the advice of council, be, and is hereby authorised, when it shall be deemed expedient, to contract and agree with any person, or persons, for the sale and purchase of all those slaves who now are or hereafter may be under sentence of death, for conspiracy, insurrection, or other crimes. The person, or persons, at the time of making such purchase, shall enter into bond, with sufficient security, in the penalty of five hundred dollars for each slave, payable to the governor and his successors, for the use of the commonwealth, with condition that he, or they, will carry out of the United States all the slaves by him, or them, purchased, who are now, or who hereafter may be under sentence of death; and the sale and disposal of every such slave shall amount to a reprieve of him, or them, from such sentence of death, *Provided always*, that if any slave, sold pursuant to this act, shall return into this state, he shall be apprehended and executed under the condemnation of the court, as if no reprieve had taken place. And in all cases where any slave or slaves shall be tried and convicted for any crime which may affect life, the court before whom such trials shall be had, shall cause the testimony for and against every such slave to be entered of record, and a copy of the whole proceedings to be transmitted forthwith to the Executive. Slaves under sentence of death for conspiracy to be purchased and transported. Subject to execution if they return. Testimony in all trials to be recorded, and a copy transmitted to the Executive.

II. THE owners of all slaves so sold, or transported, shall be paid in the same manner as for slaves executed. Owners to be paid.

III. THIS act shall commence and be in force, from the passing thereof. Enacting clause.

CHAP. CCLXXV.

An Act directing the Allowances of Witnesses in certain Cases.

[Passed the 21st of January, 1801.]

I. BE *it enacted by the General Assembly*, That in all cases hereafter, when any person, or persons, shall be summoned as a witness, or witnesses, in any prosecution for a crime or misdemeanor, to attend any court out of the county, or counties, in which he, she, or they may reside, the same allowance shall be made him, her, or them, for such attendance, as is allowed by law to witnesses and venire-men in such case attending the district courts. Compensation to witnesses summoned out of the county of the residence.

II. THIS act shall commence and be in force from the passing thereof. Enacting clause.

CHAP. CCLXXVI.

An Act paying Sheriffs for their trouble, in attending to compare the polls, on elections for Senators to the General Assembly.

[Passed the 20th of January, 1801.]

I. BE *it enacted by the General Assembly*, That the sheriffs and other officers, conducting an election for a senator, to the General Assembly, shall be allowed one dollar, sixty-seven cents, per day, for each day on which they shall necessarily attend to compare the different polls, and four cents per Allowance to

mile for travelling to and from the place appointed for that purpose, besides ferriages, to be paid in the same manner as the electors who are to vote for a president of the United States are paid.

CHAP. CCLXXVII.

An Act to increase the rates of pilotage at certain places.

[Passed the 21st of January, 1801.]

Preamble. WHEREAS the rates of pilotage heretofore allowed by law, have in certain cases, been found inadequate to the services performed: for remedy whereof,

Rates increased. I. *BE it enacted by the General Assembly*, That the rate of pilotage, at present allowed by law on all foreign bottoms coming from sea to any of the harbours or ports of delivery within this Commonwealth, shall be increased in the proportion of one-fourth.

Rates on American bottoms. II. *AND be it further enacted*, That the pilots shall be entitled to receive hereafter nine pence per foot, in addition to the pilotage at present allowed by law, on all American bottoms, and two dollars in addition to the rates now allowed on all American vessels coming in, from sea to the first port.

From Hampton road to sea. III. *AND be it further enacted*, That the rate of pilotage from Hampton road to sea, shall hereafter be seven dollars and an half, and no more.

Allowance for exposures to contagion. IV. *AND be it further enacted*, That in every case hereafter, when a pilot shall be decoyed on board a vessel, having on board any contagious disease, and thereby be compelled to remain on board and perform quarantine, such pilot shall be allowed and paid two dollars per day for every day of such detention: and moreover, in every case where a pilot boat shall be employed in performing the orders, whereby the pilot is enjoined to give notice of contagion on board any vessel to the health officer, the compensation of five dollars which is allowed in and by the third section of the act passed in the year one thousand seven hundred and ninety-five, upon the said subject, shall be, and is hereby increased one-fourth.

For detention. V. *AND be it further enacted*, That in all cases hereafter, when a vessel outward bound shall be laden and anchored in Hampton road, and the captain shall detain the vessel and pilot after a fair wind offers for going out to sea, such pilot shall then be allowed and paid ten shillings per day, during such detention of vessel and pilot: *Provided always*, that the same shall not extend to vessels falling down into Hampton Road, and not intending to proceed immediately to sea; but in every such case, the captain may discharge the pilot.

Maryland pilots. VI. *AND be it further enacted*, That the pilots residing in the state of Maryland may hereafter apply to the examiners appointed under the authority of this commonwealth, and on obtaining a branch, may exercise such branch in like manner as the pilots of Virginia, and shall receive similar fees: *Provided always*, that this privilege shall not be enjoyed until the state of Maryland shall have passed a similar law in favor of the pilots of Virginia. No negro or mulatto shall after the passing of this law, obtain a branch as a pilot: *Provided however*, that this prohibition shall not extend to, or affect any such persons now having a branch.

When the fees shall be paid. VII. THE fees allowed by law for piloting a vessel into this commonwealth, shall only be paid when a pilot has boarded the vessel without the capes of Virginia, or opposite to them. If the vessel shall be boarded by the pilot within the capes, then the pilot shall demand and receive only one half of the fees before specified into Hampton road; the fees for pilotage up the rivers, as heretofore, with the additional rates allowed by this act.

Fines increased. VIII. THE fines and penalties imposed upon pilots by the act, intituled, "An act to reduce into one the several acts for regulating pilots, and ascertaining their fees," shall be, and are hereby increased one-half respectively.

Repealing clause. IX. SO much of the last recited act as permits pilots to deposit their accounts with the collector, and authorises him to refuse a clearance to the vessel so piloted, until the payment of the account, shall be, and hereby is repealed.

Who shall pay the pilotage. X. THE consignee or supercargo of every vessel not owned by a citizen

residing in this state, shall be liable for the pilotage, if it be not paid by the master.

Boats, how marked.

XI. ALL boats on the sea shore shall hereafter have their names marked four feet below the head of the foresail.

Repealing clause.

XII. ALL and every act and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

Enacting clause.

XIII. THIS act shall commence and be in force, from the first day of March next.

CHAP. CCLXXVIII.

An Act concerning the Manufacture of Tobacco.

[Passed the 20th of January, 1801.]

Penalty for stemming or manufacturing tobacco without license.

I. BE *it enacted by the General Assembly*, That no person shall at any time after the last day of February next, stem or manufacture any tobacco, without first having obtained a licence for that purpose, in the manner prescribed by this act: and every person who shall presume to stem or manufacture tobacco, without such licence, shall forfeit and pay fifteen dollars for every fifty pounds of tobacco so by him or her stemmed or manufactured, to be recovered by an action on the case, in the name of the deputy attorney, of the county or corporation where the offence shall be committed; one-half of which fine shall go to the informer, and the other half shall be applied towards lessening the county or corporation levy.

Manner in which a license is to be obtained.

II. EVERY person intending to stem or manufacture tobacco, may apply for a licence to the court of the county or corporation where he resides, and where such stemmery or manufactory is intended to be carried on: and the said courts are hereby authorised to grant such licence, upon satisfactory evidence being produced to them that the person applying is a man of honesty, probity and good demeanor; but no licence shall be granted for a longer term than one year.

Tobacco first to be inspected and passed.

III. NO stemmer or manufacturer shall stem or manufacture, or suffer to be stemmed or manufactured, any tobacco but such as shall have been inspected and passed at some public inspection in this Commonwealth; and every stemmer or manufacturer who shall stem or manufacture, or suffer to be stemmed or manufactured, any tobacco which shall not have been inspected and passed in manner aforesaid, shall forfeit and pay fifteen dollars for every fifty pounds of tobacco by him stemmed or manufactured, or suffered to be stemmed or manufactured.

Penalty for buying tobacco from any negro.

IV. EVERY stemmer or manufacturer who shall buy or receive any tobacco from any negro, mulatto or Indian, (bond or free) shall forfeit and pay five times the value of the tobacco so bought or received, and shall moreover be liable to be prosecuted as a receiver of stolen goods, provided the same be stolen tobacco.

V. CORPORATION courts shall have the exclusive right of granting licences to stem or manufacture tobacco within the limits of their respective corporations.

Bond and security to be given.

VI. EVERY person to whom a licence shall be granted to stem or manufacture tobacco, shall in open court, and at the same at which licence is granted, enter into bond with two sufficient sureties, in the penalty of two thousand dollars, payable to the governor and his successors, for the use of the commonwealth, with a condition that he will not export, or suffer to be exported, either by land or water, any tobacco received by him for the purpose of stemming or manufacturing, until the same has been stemmed or manufactured, that he will not stem or manufacture, or suffer to be stemmed or manufactured, any tobacco, but such as shall have been inspected and passed, at some public inspection in this commonwealth: and that he will not buy or receive any tobacco from any negro, mulatto or Indian, bond or free.

How suits may be brought in case of breach of this act, and judgment recovered.

VII. AND upon every breach of the condition of such bond, an action of debt may be instituted against all the obligors in the said bond, or against the survivor or survivors of them, or against the legal representatives of the deceased obligor or obligors, and judgment shall be rendered thereon: And the said bond shall not become void on the first recovery, but may be put in suit and prosecuted from time to time, until the whole penalty be recovered.

And if in any ſuch action brought againſt the principal obligor, or againſt him and one or both of his ſureties, judgment ſhall be recovered, ſuch judgment ſhall be a complete revocation of his licence, and he ſhall, at no time thereafter, be capable of obtaining another licence to ſtem or manufacture tobacco.

Duty of inſpectors in certain caſes.

VIII. THE inſpectors of the ſeveral warehouſes within this commonwealth ſhall deliver any inſpected tobacco to any perſon who ſhall duly demand the ſame, by delivery of the notes, or otherwiſe, for the purpoſe of manufacturing it, and grant him a manifeſt therefor, upon his paying the uſual duties, and lodging with the inſpector a certificate from the clerk of ſome county or corporation court of his having obtained a licence to ſtem or manufacture tobacco in the manner preſcribed by this act.

Exception.

IX. NOTHING herein contained ſhall be ſo conſtrued as to prevent planters or farmers in country places from ſtemming or manufacturing tobacco the produce of their own farms or plantations; nor ſhall this act extend to any county weſtward of the blue ridge, nor to any county in which there is no inſpection of tobacco.

Enacting clauſe.

X. THIS act ſhall commence and be in force, from and after the laſt day of February next.

CHAP. CCLXXIX.

An Act for Paying the Expenſes of removing Criminals from the Diſtrict Jails to the Penitentiary Houſe, and for other Purpoſes.

[Paſſed the 21ſt of January, 1801.]

Manner of conveying criminals to the Penitentiary preſcribed, and ſheriffs authoriſed to impreſs.

I. BE *it enacted by the General Aſſembly*, That whenſoever any perſon, or perſons, ſhall be ſentenced by a diſtrict court to undergo confinement in the jail and Penitentiary Houſe, it ſhall be lawful for a judge of ſuch court, or any two juſtices of the peace, of the county wherein the ſaid court was held, by warrant under his or their hands and ſeals, to empower the ſheriff charged with the conveyance of ſuch priſoner, or priſoners, in all counties and places through which he ſhall paſs with him or them, to impreſs, upon the beſt terms that the nature of the caſe will admit of, ſuch and ſo many men, horſes, and boats, as ſhall be neceſſary for the ſafe conveyance of the ſaid priſoner, or priſoners, to the ſaid jail and Penitentiary Houſe; which warrant the ſheriff is hereby required to execute, and to his commands in virtue thereof, all perſons are to pay due obedience.

Sheriffs and guards exempted from arreſt.

II. THE ſheriff and guard attending any priſoner, or priſoners, by virtue of a warrant, as aforeſaid, ſhall be privileged from arreſts in all caſes, except treaſon, felony, and breaches of the peace, during the time that they are employed in conveying ſuch priſoner, or priſoners, to the ſaid jail and Penitentiary Houſe, and in returning therefrom, allowing one day for every twenty miles from their places of abode; and ſhall be authoriſed to have and receive each one dollar and four cents for every day they ſhall be ſo employed, and four cents per mile for travelling to the ſaid jail and Penitentiary, and the ſame for returning, beſides ferriages; and ſuch ſheriff ſhall alſo be allowed all neceſſary expenſes incurred by him, as well for horſes and boats impreſſed for the purpoſes aforeſaid, as for the ſupport of the priſoner, or priſoners, during the time of their removal.

Travelling expenſes.

III. IN caſe any horſe, or horſes, ſhould be impreſſed by a ſheriff, either for himſelf, or any of the guard, all charges, on account thereof, ſhall be deducted out of the pay of the perſon uſing ſuch horſe, or horſes, and the auditor of public accounts is required to iſſue his warrants on the treaſurer for any money allowed by this act.

Proviſo.

IV. *PROVIDED however*, That before the ſheriff, attending any priſoner, ſhall be entitled to a warrant or warrants, under this act, he ſhall produce to the ſaid auditor a receipt from the keeper of the ſaid jail and Penitentiary, for the priſoner, or priſoners, which he was required to convey, and make oath, that the number of men, boats, and horſes, impreſſed by him, in removing ſuch priſoner, or priſoners, and other expenſes thereby incurred, were in his opinion abſolutely neceſſary. And any perſon impreſſed as a guard, by virtue of this act, before he ſhall receive a warrant for the ſum to which he is entitled, ſhall make oath as to the number of days he was employed, the diſtance he travelled, and the ferriages paid, or to be paid by him

V. THE keeper of the said jail and Penitentiary, when he shall see cause, may request the aid of the attending physician to any prisoner confined therein, the charges whereof, as well as for medicines for such prisoner, and the expenses of supporting him or her, during his or her confinement, shall be paid out of the treasury, by order of the Executive: which expenses, as well as all others incurred for beds, bunks, blankets, sheets, coal for the manufactories, repairs of tools, and salary of the instructor, shall be charged to the convicts, in such proportions as to the inspectors shall seem just. And when any prisoner shall hereafter be sentenced, by a district court, to undergo confinement in the jail and Penitentiary House, such prisoner shall be conveyed thereto by such sheriff, as the said court shall think proper to direct: and in case of death, or inability to act, by such other sheriff as shall be appointed by any two justices of the peace, by warrant under their hands and seals, all expenses attending the apprehension, confinement, examination, and trial of such prisoner; as also of removing him, or her, to the Penitentiary House, shall be charged to such prisoner; and that the whole of such expenses may be fully ascertained, the clerks of the county and district courts shall, within thirty days after the conviction of such prisoner, make and certify as accurately as they can, to the clerk of the said jail, and Penitentiary, a statement of the expenses attending the examination and trial of such prisoner, in the said courts. And the auditor of public accounts is hereby also required within thirty days after the receipt for any prisoner, or prisoners, produced to him as aforesaid, to make a like statement of the expenses attending his, or their, removal from the district jail; and if there be more than one prisoner delivered by the same sheriff, to apportion the expenses among them, and certify to the clerk of the said Penitentiary, the expense incurred in removing every such prisoner. And if any person entitled to compensation on account of the removal of any criminal from a district jail, shall fail to apply for a warrant for the same, before the auditor shall have given his certificate, as aforesaid, no warrant shall afterwards be granted therefor.

Physician to be employed.

Charges on the prisoners.

Duty of the clerks of county courts.

VI. OF all expenses by this act directed to be charged to the convicts, a regular account shall be kept by the clerk of the said jail and Penitentiary House; which expenses shall be deducted and paid out of the profits arising from the labour of such convicts during their confinement therein, in the same manner that other expenses of criminals, confined in the said Penitentiary, are now directed to be deducted and paid.

Clerk of the Penitentiary to keep regular accounts.

VII. THIS act shall commence and be in force, from and after the first day of March next.

Enacting clause.

CHAP. CCLXXX.

An Act to prevent the Executive from remitting Fines or Amercements.

[Passed the 23d of January, 1801.]

I. BE *it enacted and declared by the General Assembly*, That in future it shall not be lawful for the Executive of this commonwealth to remit, mitigate, or moderate, any fine, or amercement, assessed or imposed, by any court of record, court martial or other power, or authority, authorised to assess or impose such fine, or amercement, unless by law the Executive be expressly authorised to remit, or act upon the same.

Fines not to be remitted by the Executive.

II. THIS act shall commence and be in force, from and after the passing hereof.

Enacting clause.

CHAP. CCLXXXI.

An Act to amend the act, intituled, "An act directing what Prisoners shall be let to Bail."

[Passed the 23d of January, 1801.]

I. BE *it enacted by the General Assembly*, That no person shall hereafter be bailable for any offence, which, on the twenty-fifth day of March, in the year eighteen hundred, was punishable in life, or limb: but if only a light suspicion of guilt fall on the party, he shall in like manner be bailable.

Bail not allowed, in any case not bailable, &c.

II. ALL acts, and parts of acts, coming within the purview of this act, shall be, and are hereby repealed.

III. THIS act shall be in force from the passing thereof.

Enacting clause.

CHAP. CCLXXXII.

An Act to Explain in Part, an act, intituled, "An act to impose certain Taxes on Law Process, and for other Purposes."

[Passed the 23d of January, 1801.]

Preamble. WHEREAS doubts have arisen, what taxes are now imposed on appeals from the inferior courts to the high court of chancery, and district courts; and by whom the said taxes are to be collected, under the act, intituled, "An act to impose certain Taxes on Law Process, and for other purposes."

Tax on appeals. I. *BE it therefore enacted by the General Assembly,* That in lieu of the taxes now imposed by law on such appeals, the following taxes shall be paid, to wit; on each appeal, granted by a county or corporation court, to the high court of chancery, two dollars; and on every such appeal to a district court, one dollar; which taxes shall be paid to the clerks of the respective county, or corporation courts, in open court, at the time of praying the appeal, and shall be accounted for by the said clerks, in like manner, as other taxes received by them under the act aforesaid.

To be accounted for by clerks.

Repealing clause. II. ALL acts coming within the purview of this act are hereby repealed.

Enacting clause. III. THIS act shall commence from and after the passing thereof.

CHAP. CCLXXXIII.

An Act to amend the act, intituled, "An act to reduce into one the several acts, concerning slaves, free negroes and mulattoes."

[Passed the 21st of January, 1801.]

Slaves not permitted to hire themselves out. I. BE *it enacted by the General Assembly,* That if any person shall permit his or her slave, or any slave hired by him or her, to go at large or hire himself, or herself out, it shall be lawful for any person, and it shall moreover be the duty of every sheriff, deputy sheriff, coroner and serjeant of a corporation to apprehend, and carry such slave before a magistrate of the county or corporation where apprehended, and if it shall appear to the magistrate that such slave comes within the purview of this act, he shall order him or her to the jail of the county or corporation, there to be safely kept until the next court, when, if it shall appear to the court that the slave so ordered to jail hath been permitted or suffered to hire him or herself out, contrary to the meaning of this act, it shall be lawful for said court, and they are required to order the sheriff or other officer, to sell every such slave for ready money, at the next court, held for the said county or corporation, notice being given at the courthouse door, at least twenty days before such sale. *Provided always,* that no sale pursuant to this act shall convey a greater interest in such slave than the person himself, or herself had, who commits a breach of this law, unless it shall appear to the court that the owner of such slave was privy to, or connived at such breach.

Duty of magistrates.

Slaves hiring themselves out, how to be sold.

Penalty on trustees, guardians, executors, &c. permitting slaves to hire themselves out. II. ANY person who shall suffer a slave held by him or her as trustee, guardian, executor or executrix, administrator or administratrix, to hire himself or herself out contrary to the meaning of this act, shall forfeit and pay forty dollars for each and every such offence, to be recovered by any person who will sue for the same by action of debt or information in any court of record within this commonwealth.

Money arising from the sale of slaves, how to be applied. III. ONE third of the amount of the sale of every such slave shall be applied by the court ordering such sale, towards lessening the county or corporation levy, and the residue shall be paid by the sheriff or other officer after deducting six per centum on the whole amount for his trouble, and the jailor's fees, to the person who shall inform thereof, and cause the fact to be established, and where there shall be no informer, then the whole proceeds of the sale, after deducting the commissions of the sheriff or other officer and the jailor's fees as aforesaid, shall be applied towards lessening the county or corporation levy.

Slaves admitted as witnesses against free negroes or mulattoes. IV. ANY negro or mulatto bond or free shall be a good witness in pleas of the commonwealth for or against negroes or mulattoes, bond or free, or in civil pleas where free negroes or mulattoes shall alone be parties; and whereas experience has evinced that the fourth section of the act intituled, "An act to prevent the migration of free negroes and mulattoes into this commonwealth," is defective, for remedy whereof, *Be it enacted,* That if any slave shall hereafter

Duty of magistrates,

be brought or come into this ſtate from any place without the limits of the ſame, it ſhall be the duty of any magiſtrate of the county or corporation where ſuch ſlave ſhall be found, upon information to him given to cauſe ſuch ſlave to be immediately apprehended and brought before him, or ſome other magiſtrate of the county or corporation, who, upon ſatisfactory evidence had, ſhall commit ſuch ſlave to the jail of his county or corporation. And the magiſtrate ſo committing ſhall forthwith give notice to the governor of his proceedings, who with the advice of council ſhall take ſuch ſteps for the removal and tranſportation out of this commonwealth, of the ſlave or ſlaves ſo committed, at the public expenſe, as they in their diſcretion may think proper. And the expenſes ſo incurred ſhall be paid by the perſon importing or holding ſuch ſlave ſo removed; and ſhall be recoverable againſt every ſuch perſon as aforeſaid, his or her executors and adminiſtrators in the name of the governor of the commonwealth for the time being, by motion, or ſuit, in which every ſuch perſon may be held to bail, in any court of record in this commonwealth: *Provided*, ten days previous notice be given of ſuch motion to the perſons to be affected thereby: *Provided alſo*, that the governor ſhall have power to order ſuch ſlave to be ſold and tranſported without the limits of this commonwealth, if the perſon holding or importing ſaid ſlave be unable to reimburſe the commonwealth the expenſe of commitment, removal and tranſportation: *Provided alſo*, that nothing herein contained ſhall be conſtrued to repeal the fourth ſection of the act, intituled, "An act to reduce into one the ſeveral acts concerning ſlaves, free negroes and mulattoes."

Where ſlaves are brought or come into this ſtate.

Executive to remove or tranſport ſuch ſlaves at public expenſe.

The commonwealth to be reimburſed by the importer or holder of ſuch ſlave.

V. *BE it further enacted*, That it ſhall be the duty of every commiſſioner of the revenue, annually, to return to the court of his county or corporation, at the time he returns a liſt of taxable property, a complete liſt of all free negroes or mulattoes within his diſtrict, together with their names, ſex, places of abode, and particular trades, occupation or calling, a copy of which liſt ſhall be fixed by the clerk of the ſaid county or corporation, at the courthouſe door, and the original be depoſited for ſafe keeping in his office, every commiſſioner of the revenue or clerk of a court failing in ſaid duty ſhall forfeit and pay the ſum of twenty dollars, to be recovered by motion or information, one half to the uſe of the county or corporation, and the reſidue to any perſon who ſhall ſue for the ſame.

Commiſſioners of the revenue, annually to return a liſt of all free negroes and mulattoes within his diſtrict.

Penalty on commiſſioners or clerks failing in their duty.

VI. IF any negro or mulatto ſo regiſtered, ſhall remove into another county, it ſhall and may be lawful for any magiſtrate of the county or corporation in which he or ſhe may intrude, to iſſue a warrant to apprehend ſaid free negro or mulatto; and if upon examination it be found that he or ſhe has no honeſt employment by which to maintain him or herſelf, ſuch free negro or mulatto ſhall be deemed and treated as a vagrant.

Free negro or mulatto regiſtered, how to be treated, removing into another county or corporation.

VII. ALL the courts of law within this commonwealth ſhall conſtantly give this act in charge to the grand juries of their courts, at the times when ſuch grand juries ſhall be ſworn.

VIII. ALL acts and parts contrary to this act, ſhall be, and the ſame are hereby repealed.

Repealing clauſe.

IX. THIS act ſhall commence in force, from the firſt day of June next.

Enacting clauſe.

CHAP. CCLXXXIV.

An Act in addition to the act, intituled "An act, to amend the Penal Laws of this Commonwealth."

[Paſſed the 21ſt of January, 1801.]

I. BE *it enacted by the General Aſſembly*, That any perſon who ſhall hereafter, of his own free will and accord, or by the perſuaſion of, or combination with any foreign agent, or any other perſon, being an alien, or a citizen of this commonwealth, or of any other of the United States, deliver up or ſurrender, or cauſe to be delivered up or ſurrendered, either by his own authority, or under colour of any office whatſoever, held, or claimed to be held, under the authority of this commonwealth, any citizen of this commonwealth, or of any other of the United States, or any other free perſon whomſoever, being within the limits of this commonwealth, and entitled to the protection of the laws thereof, during his reſidence therein, to be tranſported beyond ſea, or elſewhere, without the United States, ſhall on conviction of every ſuch offence, be adjudged a felon, and ſentenced by the court before whom

Penalty on perſons delivering or ſurrendering citizens or other perſons to be tranſported, &c.

such conviction shall be had, to undergo a confinement in the jail and penitentiary house, for a term not exceeding ten years, nor less than one year, and during such term, be compelled to perform such labour, and be subjected to such rules and regulations, in other respects, as is prescribed by law in the case of other felons condemned to serve in said house.

A person delivering or surrendering another who shall be executed, to be deemed a felon.

II. *AND be it further enacted*, That in case any person so delivered up or surrendered as aforesaid, shall be transported by sea or land, to any place without the jurisdiction of the courts of this commonwealth, or of any other of the United States, and at such place shall be tried and condemned by any court, either civil or military, for any criminal offence pretended to have been committed by such person at any place whatsoever, and, in consequence of such condemnation, shall be actually executed under the authority of the court passing sentence upon him, then all and every person or persons concerned in such delivery and surrender shall, on conviction thereof, and due proof made of such condemnation and execution as aforesaid, be adjudged a felon, and suffer death in like manner as aiders, abettors and counsellors of murder in the first degree are directed to be punished in and by the fourteenth section of the act, intituled, "An act to amend the penal laws of this commonwealth."

III. *AND be it further enacted*, That all the duties required by the said recited act to be performed by the court of the city of Richmond, shall hereafter be performed by the governor with the advice of council, any thing in the said recited act to the contrary notwithstanding.

Inacting clause.

IV. THIS act shall commence and be in force from the passing thereof.

1801. *General Assembly*, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 7th Day of *December*, in the Year of our Lord, 1801.

CHAP. CCLXXXV.

An Act laying Taxes for the Support of Government.

[Passed the 25th of January, 1802.]

Taxes on lands, slaves and other property.

I. BE *it enacted by the General Assembly*, That the public taxes for the year one thousand eight hundred and one, shall be as follows, to wit: On lands for every hundred dollars value, agreeably to the equalizing law, forty-eight cents; for every slave above the age of twelve years, except such as have been, or shall be exempted, by reason of age or infirmity by the respective county or corporation courts, forty-four cents; for every stud horse and jackass, twice the price at which such horse or ass covers a mare for the season; for all other horses, mules, mares and colts, twelve cents each; for every ordinary license, twelve dollars and fifty cents; for every four wheeled riding carriage, except phætons and stage-waggons, one dollar and twenty-five cents per wheel; for all phætons and stage-waggons, eighty-four cents per wheel; and for every other riding carriage with two wheels, forty-three cents per wheel; for all lots and houses in town, one dollar and fifty-six cents, on every hundred dollars of the rent thereof, to be ascertained by the rent paid by the tenant, and where such house or lot is in the occupation of the proprietor, the yearly rent or value thereof shall be ascertained by the commissioners of the revenue, or either of them, by a comparison of its value with other houses or lots actually rented: *Provided*, That the owner or proprietor of any such house or lot, if he thinks himself aggrieved by such valuation, may appeal to the court by whom the commissioners were appointed, whose judgment as to the yearly rent or value, shall be final. The said commissioners or either of them to ascertain the rent paid on houses or lots actually leased, may call on the tenant or proprietor to declare, on oath or solemn affirmation, what is the amount of the rent paid for the same; and every person so called on, and refusing to declare, shall forfeit and pay the sum of three hundred dollars, to be recovered by motion, on ten days previous notice, to be made by the commissioners of the revenue or either of them: *Provided*, that no taxes shall be collected on lands, lots, houses or other property belonging to this commonwealth, or to any county, town, college, houses for divine worship, or seminary of learning; every covering horse or jack ass which shall not be duly entered with the commissioners of the tax, and all such horses and asses brought into this commonwealth, subsequent to

the ninth of March next, shall be liable to a treble tax, to be paid by the owner of the place at which he shall stand, upon whom it shall be distrainable by the sheriff, as if it had been entered in the commissioner's book: for two-thirds whereof the sheriff shall be accountable to the public, and in case of failure to pay the same, shall forfeit two hundred dollars, to be recovered with costs, on motion, after ten days notice by the auditor, for the use of the commonwealth: *Provided*, that any person so bringing such horse or ass into the state, entering him with the commissioner within ten days thereafter, and paying the tax to which he would have been liable had he been duly entered, to the sheriff or collector, shall be absolved from the said penalty, and the said commissioners shall subjoin the said horse or ass to the list of taxables.

On licenses to sell merchandize.

II. *AND be it further enacted*, That upon any person's producing to the commissioner of the revenue for the county, district, or corporation, or to the clerk of the court, if there be no commissioner, a receipt for the sum of forty dollars paid to the sheriff or collector, such commissioner shall grant to such person, a license to sell merchandize of foreign growth or manufacture by wholesale and retail, for and during the term of twelve months; or if the said receipt shall be for fifteen dollars, such person shall in like manner receive a license to retail such goods for the same time. And if any person shall sell such merchandize either by wholesale or retail, on land, or on board any vessel, without having obtained such license, such person shall forfeit and pay five hundred dollars, to be recovered by the commissioner in any court of record, on ten days previous notice; and to be paid to the sheriff for the use of the commonwealth; of which licenses and fines, the commissioners shall annually in their books, return a list to the auditor of public accounts, on or before the fifteenth day of September, specifying names, which shall be good evidence whereupon to charge the sheriff or collector: *Provided always*, That if there be no sheriff or collector, the clerk of the court shall have a right to receive the tax, to be accounted for in like manner as other taxes by him received, which receipt being produced to the commissioner of the revenue, such commissioner shall grant to such person a license to sell in the same manner as if the money had been paid to a sheriff or collector: *Provided nevertheless*, That not above one tax shall be paid on account of so selling at one and the same store; and if any person shall possess two or more stores, he or she shall pay one tax for each store; *And provided also*, that nothing contained in this, or any other act, shall be so construed as to impose a tax on planters or farmers for* selling salt, iron, or steel, to their neighbours, purchased as a return load for their produce carried in their† waggons, or otherwise, to market. All the said licenses shall be taken out previous to the first day of May next, and shall be good and effectual for and during the term of one year. *Provided*, That if any new store shall be opened on land, between the first day of May, and the same day in the following year, the said tax shall be apportioned according to the time then to come of one year; and its amount shall be specified in the license, and in the commissioner's return.

Only one tax to be paid for selling at one store.

No tax to be received for selling salt, &c. in certain cases.

Hawkers and pedlars to obtain licenses. Proceedings against them for failing to do so.

III. *AND be it further enacted*, That the act concerning Hawkers and Pedlars, shall be so construed as to make it necessary for each hawker and pedlar to obtain a license, that it shall be the duty of the commissioners to report to the courts of their respective counties, such merchants, hawkers and pedlars as neglect to comply with this act; and on such report, it shall be the duty of the said court to direct process against all delinquents so reported.

Licenses of hawkers and pedlars to be recorded.

IV. *BE it further enacted*, That each hawker and pedlar, after obtaining a license to sell goods, wares and merchandize, shall in the court of each county, in which he offers goods for sale, enter of record his license obtained for vending goods, wares and merchandize, for which he shall pay twenty-five cents to the clerk, and in case of failure, each hawker and pedlar shall be subject to the same penalty as if he had no such license. The clerk of each court shall on each court day throughout the year, cause a list of such licenses as are recorded by him to be stuck up in some public place in the courthouse, expressing when each license was granted, when it will expire, and by what court it was granted, and in case of failure, such clerk for each omission shall forfeit and pay the sum of fifty dollars, to be recovered by motion of the commissioners, in any court of record, ten days notice thereof being first given. For every license granted by a commissioner under this act, he shall be entitled to twenty-five cents, which shall be paid to him out of the public treasury, on warrant of the audi-

Duty of clerks relative to such licences.

* from *in the roll*. † the *in the roll*.

tor of public accounts, after his list of licenses shall be returned to the auditor as aforesaid. Clerks of courts shall annually on or before the first day of October, return to the auditor a list of all hawkers and pedlars' licenses granted by their respective courts, previous to the first day of September in every year, and every clerk neglecting this duty shall forfeit fifty dollars, to be recovered in the general court, by motion, on ten days previous notice. The clerks of courts shall also, on or before the fifteenth day of December in every year, account on oath to the auditor of public accounts, for all taxes received by them, by virtue of their offices, previous to the first day of September in such year. So much of the act passed at the session of Assembly which commenced in December, one thousand seven hundred and ninety-eight, intituled, "An act to impose certain taxes on law process, and for other purposes," as is contrary hereto, shall be and is hereby repealed.

Clerks of courts to return an account annually of taxes received by them.

Sheriffs and others to have notice of motion.

V. AND for the more effectual collection of the taxes aforesaid, and others which may become due to the commonwealth, *Be it further enacted*, That ten days previous notice shall hereafter be necessary to any sheriff, collector, clerk, inspector, or notary public for the purpose of recovering a judgment for any taxes, fines, or public dues of any kind where by law the auditor is authorised to proceed against them, or any of them, by motion. No sheriff or collector shall at any time be allowed to return any list of insolvents, or have any credit therefor after twelve months shall have expired from the period of the taxes becoming payable by such sheriff or collector, to which such list relates. A commission of five per cent. and no more shall be allowed the sheriffs and collectors for the collection of taxes on licenses to be granted to merchants under this act, and on license to* be granted to hawkers and pedlars, under an act intituled "An act concerning hawkers and pedlars," any law to the contrary notwithstanding.

Duty of commissioners.

VI. A LIST of all licenses granted to merchants shall be returned by the commissioner granting the same to the county or corporation courts for their examination, after which the said lists shall be delivered to the said sheriffs or collectors, who shall annually on or before the first day of October next, after the receipt thereof, account for and pay the same into the public treasury.

Commencement of this Act.

VI. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCLXXXVI.

An Act to appropriate the Public Revenue.

[Passed the 1st of February, 1802.]

Taxes to constitute a general fund.

I. BE *it enacted by the General Assembly*, That all taxes, and arrearages of taxes, except arrearages of taxes due prior to the year eighteen hundred, and all other branches of revenue, which shall arise to the commonwealth, prior to the first day of January eighteen hundred and three, shall constitute a general fund, and be appropriated in the following manner, to wit: To the payment of all unsatisfied warrants charged on the said taxes by the act of the last session of Assembly appropriating the public revenue; to the payment of forty thousand dollars for the expenses of the General Assembly, at their next session; sixty-one thousand dollars to the officers of civil government; four thousand five hundred dollars to the officers of militia; twelve thousand five hundred dollars, the expenses of examining and trying criminals in the county and district courts; six thousand dollars for slaves that may be executed; two thousand dollars for slaves that may be transported; four thousand dollars for expenses of guards over criminals in the county and district jails; five thousand dollars for the lunatic hospital; thirteen thousand five hundred dollars to the commissioners of the revenue; four thousand five hundred dollars to pensioners; one thousand dollars to the Upper Appamattox canal company; two thousand dollars for the Dismal Swamp canal company; fourteen thousand dollars to the guard to be kept at Richmond; twenty-one thousand dollars for completing the arsenal and manufactory of arms; forty-six thousand dollars artificers' pay, and for materials, including tools for carrying on the said manufactory; two thousand five hundred dollars for removing criminals from the district jails to the penitentiary house; four thousand dollars for charges on account of criminals confined in the penitentiary-house; twenty thousand dol-

Appropriation thereof.

* so *in the roll.*

lars for completing the penitentiary buildings; seven thousand five hundred dollars for charges on account of public warehouses; one thousand seven hundred dollars for public services of clerks of district courts; twenty-eight thousand two hundred and thirty dollars for interest on paper money funded, interest on military certificates, and interest on loans, including interest on money paid into the treasury for British debts; sixty-three thousand seven hundred and seventy-three dollars for the purchase of arms under contracts heretofore entered into by the Executive; one thousand dollars for collecting and preserving the public ordnance; twenty thousand dollars for the payment of all sums directed to be paid by the present General Assembly, for which no provision has been made; and twelve thousand dollars for contingent expenses, not including therein, such as may be incurred for repelling invasions or suppressing insurrections, and such other cases as may result from necessity.

Certificates receivable for arrears of certain taxes.

II. *AND be it further enacted*, That all certificates issued by the treasurer or by the auditor of public accounts to individuals for debts due to them by the commonwealth, shall be receivable by the sheriffs or collectors in the collection of all arrearages of taxes due prior to the year one thousand seven hundred and ninety-eight; and the said certificates shall be received by the treasurer from the sheriffs or collectors in discharge of the aforesaid arrearages of taxes; lists of licenses granted to merchants and to hawkers and pedlars, and directed to be returned to the auditor's office, on or before the first day of October in every year, shall be made up to the first day of September in the same year, and the dates of the said licenses as well as the names of the persons to whom they have been issued, shall be specified in the said lists.

Lists of licenses to merchants, &c. how to be made up.

Repealing clause.

III. ALL acts, and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Commencement of this act.

IV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCLXXXVII.

An Act to amend and reduce into one act the several acts concerning Pilots, and regulating their Fees.

[Passed the 23d of January, 1802.]

Preamble.

WHEREAS great inconvenience is experienced from the multiplicity of laws on the subject of pilots, which will be better understood and observed, if amended, and brought into one view:

Examiners appointed.

I. *BE it therefore enacted by the General Assembly*, That Paul Loyal, and Robert Barron of Norfolk, William Tea, and William Pritchett of Portsmouth, and Edward Cooper, James Latimer, James Cunningham, Francis Ballard, John Parish, James Wood, and William Banks, be, and they are hereby appointed examiners, any three of whom may examine and admit as pilots those who are qualified according to the regulations herein after expressed.

To take an oath.

II. EVERY examiner now, or hereafter to be, appointed, shall before he enters on the duties of his office, take an oath before the court of the county where he resides, that he will faithfully and impartially, execute the duties by this act enjoined.

Vacancies in examiners how filled.

III. WHENEVER a vacancy shall happen by the death or resignation of any examiner, the court of the county or corporation where the examiner so dying or resigning resided, shall and may appoint some proper and discreet person to fill such vacancy; *Provided* a majority of acting magistrates are present when such appointment is made.

Persons applying to be examined to produce certain certificates, &c.

IV. EVERY person applying to be examined, shall produce a certificate from the court of the county or corporation where he resides, of his honesty and good demeanor, and that he is a citizen of this commonwealth; and moreover, shall produce satisfactory proof to the examiners, of his having served as an apprentice to some branch-pilot in this state, for the term of five years. If, upon such examination, such person be found properly qualified to act as a pilot, the examiners or any three, shall grant him a branch, upon his paying down to them five dollars, and entering into bond with such security as the board of examiners shall approve, in the penalty of five hundred dollars, payable to the governor for the time being and his successors, with a condition for the faithful performance of the duties required by this act; which bond shall be

Branches to be given to those qualified.

Fee therefor.

Bond, &c. to be given on obtaining a branch.

lodged in the clerk's office of the county or corporation where it may be executed, and may be sued at the instance of any person injured by a breach of the conditions thereof.

Pilots to be arranged into classes.

V. ALL pilots within this commonwealth shall be arranged into three classes, and distinguished by the numbers—first class—second class—third class: And, in every branch to be granted under the authority of this act, the examiners who grant, shall distinguish to which class the pilot obtaining a branch shall belong.

To take charge of vessels according to their classes.

VI. THE pilots belonging to the first class, shall alone have power to pilot and conduct vessels of every burthen and description; those belonging to the second class shall be confined to conducting and piloting such vessels whose draught of water shall not exceed twelve feet; and the third rate pilots shall be confined to the piloting vessels whose draught of water shall not exceed nine feet.

Removal out of state a disqualification.

VII. EVERY person removing out of this commonwealth, after having obtained a branch as aforesaid, shall be incapable to act as a pilot, and his removal shall be considered as vacating his branch; and such person acting thereafter as a pilot, shall be subject to the like penalties as those are subject to by this law, for acting as pilots without having a proper boat, or without obtaining a branch.

Pilots to keep sufficient boats.

VIII. NO person shall undertake the business of a pilot, although he may have received a branch as aforesaid, unless he or the company to which he belongs, shall keep one sufficient boat, of eighteen feet keel at least, under the penalty of one hundred and fifty dollars, which may be recovered, in any court of record in this commonwealth, by any person who will sue for the same, by action of debt, in which he or they may be held to bail: And if any person, without having and obtaining a branch as aforesaid, shall undertake to conduct any vessel from sea, to and from the places herein after mentioned, he shall incur the penalty of thirty dollars, to be recovered in like manner: And moreover, every such person shall be liable for all damages occasioned by his piloting, which may be recovered by action, in any court of record in this commonwealth, by any person injured: *Provided*, That this act shall not extend to prevent any person from assisting a vessel in distress, so as he or they deliver up such vessel to the pilot, who shall offer to undertake the conducting of her, for which such assistant shall and may demand and receive from the said pilot, half the fees allowed for pilotage by this act.

Penalty on persons for piloting without authority.

Proviso as to vessels in distress.

Not more than four pilots to be in partnership.

IX. NO more than four pilots shall be in partnership under the penalty of one hundred dollars each; to be recovered with costs, by any person suing for the same.

Pilot boats to be marked.

X. EVERY pilot boat shall have her name, and the port to which she belongs, marked ten feet below the head of her foresail, on each side thereof in letters of at least nine inches in length; otherwise the owner or owners shall not be entitled to the fees allowed by this act.

Apprentices allowed to pilot in certain cases.

XI. IF any branch pilot shall have an apprentice, who shall be adjudged by a board of examiners, qualified to conduct and pilot a vessel, such apprentice may, upon receiving a copy of his master's branch, with the name of the pilot boat, and the port to which she belongs, endorsed thereon by a board of examiners, (who shall also endorse the class to which the said master belongs) take charge of, and conduct any vessel rated according to his class: And no branch pilot shall be at liberty to take from such apprentice any vessel which he may have in charge.

Rules for pilots.

XII. *AND be it further enacted*, That it shall be lawful for any pilot belonging to this commonwealth, who first meets a vessel coming from sea, to take charge of and conduct her into Hampton road, York river, or Mob-jack bay, and to receive the fees allowed by law for piloting vessels to the aforesaid places; from whence any pilot having a branch which will authorise him to conduct her to the port to which she is destined, may and shall take charge of such vessel.

Penalty on pilots for losing vessels.

XIII. IF any pilot or his apprentice, who may be authorised as this act requires, shall negligently or by misconduct, lose any vessel in his charge, and such negligence or misconduct be satisfactorily proved before the examiners, such pilot shall be suspended for a time not exceeding six months; and moreover shall be liable to the party injured, for all damages occasioned by such negligence or misconduct.

Duty of pilots meeting

XIV. THE pilot who first meets a vessel coming into this commonwealth,

shall enquire into the health of her crew, and the place from which she last came; and if she came from any place from whence veſſels coming are required to perform quarantine, he ſhall immediately direct her to follow his veſſel, ſtrictly attending to her, and conducting her to the neareſt place for veſſels to perform quarantine; and ſuch pilot ſhall, as ſoon after as poſſible, give notice to the ſuperintendant of quarantine at the port neareſt ſuch place, if there be one, of the arrival of ſuch veſſel; for which extra trouble the pilot ſhall be allowed ſeven dollars, to be paid by the maſter or owner of ſuch veſſel; and if any pilot conducting ſuch veſſel, ſhall fail to give notice to the ſuperintendant as aforeſaid, he ſhall, upon complaint and due proof of ſuch failure, be ſuſpended by the examiners for a term not exceeding two months; and if any pilot ſhall be decoyed on board any veſſel in which there is a contagious diſeaſe, and be thereby obliged to remain on board, and perform quarantine, ſuch pilot ſhall be allowed and paid by the maſter or owner thereof, three dollars for every day he ſhall be ſo detained. And, to the end that all pilots may be properly informed, when veſſels coming into this ſtate from any place ſhall be bound to perform quarantine, the governor of this commonwealth for the time being, is hereby required, whenever he ſhall iſſue a proclamation to that effect, to tranſmit to the ſuperintendant of quarantine, ſo many copies thereof as he may think proper; and the ſuperintendant ſhall forthwith cauſe to be delivered to each pilot a copy of ſuch proclamation.

ing veſſels.

Penalty for neglect.

Allowance to pilots decoyed on board veſſels in certain caſes.

Duty of governor in iſſuing proclamations relative to quarantine.

XV. *AND be it further enacted*, That the rates of pilotage on American veſſels ſhall hereafter be as follows, to wit: From ſea to Hampton road twelve dollars, and from Hampton road to ſea ſeven dollars and fifty cents, and for each foot of depth of water the veſſel draws, from Hampton road or Seawell's point to Norfolk or Portſmouth, eighty-eight cents per foot; to Sleepy hole or Lookout, one dollar and three cents per foot; to Pagan creek eighty-eight cents per foot; to James town one dollar and ninety-four cents per foot; to Martin's Brandon two dollars and twelve cents per foot; to Flower de Hundred two dollars and twenty-five cents per foot; to City-Point or Bermuda Hundred two dollars and eighty-ſeven cents per foot; to Four mile creek three dollars and forty-eight cents per foot; to Oſbornes three dollars and eighty-ſeven cents per foot; to Warwick four dollars and thirty-four cents per foot; to Richmond four dollars and ſixty-three cents per foot. On York river, coming from ſea to York town twelve dollars; from York town to ſea ſeven dollars and fifty cents; from Back river or Egg iſland to York town ſix dollars; from York town to Weſt Point one dollar and thirty-three cents per foot; to Cumberland one dollar and ſixty-three cents per foot; to the higheſt landing on Pamunkey river two dollars and ſeven cents per foot; to Shepard's one dollar and forty-ſeven cents per foot; to Meredith's, Moore's, or the higheſt landing on Mattapony one dollar and ninety-ſeven cents per foot; from Cape Henry to any river on Mobjack bay, twelve dollars; and from Mobjack bay to ſea ſeven dollars and fifty cents; from the capes to Urbanna fifteen dollars; and from Urbanna to ſea twelve dollars; from Urbanna to Tappahannock one dollar and forty cents per foot; to Naylor's hole one dollar and thirty-eight cents per foot; to Leed's or Micou's two dollars and thirteen cents per foot; to Port Royal two dollars and ninety-ſeven cents per foot; to Fredericksburg three dollars and ſeventy cents per foot; from ſea to Piankatank fifteen dollars; and from Piankatank to ſea twelve dollars.

Rates of pilotage on American veſſels.

XVI. *BE it enacted*, That the rates of pilotage from Cape Henry up the Potomack river as high as the Eaſtern Branch ſhall be as follows: From the cape to Smith's point on South Potomack coming from ſea twenty five dollars, and for going out twenty dollars and eighty-three cents; from Smith's point to Coan or Yeocomico ſeventy-four cents per foot; to Machadock eighty-four cents per foot; to upper Machadock one dollar and twelve cents per foot; to Nangomy one dollar and thirty-ſeven cents per foot; to Boyd's Hole one dollar and forty-ſeven cents per foot; to Quantico one dollar and fifty-eight cents per foot; to Occoquan one dollar and ſeventy-eight cents per foot; to Piſcattaway two dollars and ten cents per foot; to Alexandria two dollars and forty-eight cents per foot; and to the Eaſtern branch two dollars and ſixty-two cents per foot; and the pilots ſhall and may demand the ſame rates for each foot back from the aforeſaid places.

XVII. THE pilots ſhall be, and they are hereby entitled to demand and receive from foreign veſſels one fourth in addition to the foregoing rates: *Provided*, that coaſting veſſels ſhall not be obliged to take a pilot. Every pilot

Additional pilotage on foreign veſſels.

Rates for piloting ships of war.

taking charge of a ship of war shall be entitled to receive in lieu of pilotage allowed by this act, the following prices: For ships of war above fifty guns, from Cape Henry to Hampton road twenty dollars; for ships under fifty and above twenty guns fifteen dollars; from Cape Henry to York town, for ships above fifty guns twenty-four dollars; ships under fifty guns and above twenty guns eighteen dollars; from Cape Henry to any river on Mobjack bay twenty-five dollars; from the cape to Smith's point on South Potomack forty-five dollars, and the same prices back.

Allowance to pilots detained by the vessel's not being ready.

XVIII. AND when any master of a vessel shall give reasonable notice to the pilot he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and receive one dollar and seventy-five cents for every day he shall be detained by such master's not being ready to proceed according to his notice.

XIX. AND in all cases hereafter, when a vessel shall be outward bound and anchored in Hampton road, and the master shall detain a pilot, after a fair wind offers for going to sea, such pilot shall be entitled to demand one dollar and seventy-five cents for every day he shall be detained: *Provided*, That the same shall not extend to vessels falling down into Hampton road, and not intending immediately to proceed to sea; in which case the master may discharge the pilot.

Penalty on pilots refusing to do their duty.

XX. AND if any pilot, not being hindered by sickness or other lawful cause, shall refuse when requested by the master of any vessel, to go on board and conduct her, such pilot shall upon complaint and satisfactory evidence before the board of examiners, be suspended for such time as they shall think fit: And if any injury shall arise to the master in consequence of such refusal, such pilot shall be answerable to him for all damages, to be recovered by action in any court of record within this commonwealth.

Allowance to pilots carried to sea.

XXI. EVERY master of a vessel carrying a pilot to sea, shall pay to such pilot the same wages as the mate of such vessel receives.

To pilots attending with their boats.

XXII. EVERY pilot who shall attend any vessel with his boat, at the request of the master or owner, shall be allowed and paid, seven dollars per day for such attendance.

Captains or masters of vessels to receive pilots.

XXIII. EVERY captain or master of a vessel, shall receive a branch pilot, if one offers, to conduct his vessel out to sea from the port of lading.

Regulation as to fees of pilots.

XXIV. THE fees allowed by this act, for piloting a vessel into this commonwealth, shall only be paid when a pilot has boarded a vessel without the capes of Virginia, or opposite to them; if the vessel be boarded by a pilot within the capes, he shall be entitled to demand only half of the fees before specified into Hampton road.

XXV. THE consignees or super-cargo of any vessel, not owned by a citizen residing in this state, shall be liable for the pilotage, if not paid by the master.

Pilots to carry with them a copy of this act.

XXVI. AND in order that strangers and others may not be imposed on in the rates of pilotage, by this act allowed, *Be it enacted*, That every pilot appointed under the authority of this act, shall be obliged, when in the execution of his duty, to carry with him a copy thereof, and shall produce the same, if demanded by any master or owner of a vessel which he may conduct, before he shall be entitled to receive his pilotage from them, or either of them; and

Penalty for demanding more than legal fees.

if any pilot shall demand, or receive greater fees for any services rendered, under the authority of this act, than he is allowed, he shall forfeit and pay to such master or owner double the amount by him received, to be recovered by action of debt in any court of record within this commonwealth.

Branches not to be given to a negro or mulatto.

XXVII. NO negro or mulatto shall, after the passing of this act, obtain a branch as a pilot: *Provided*, however, that this prohibition shall not extend to, or affect, any such person now having a branch.

Examiners to be furnished with copies of this act.

XXVIII. THE public printer shall furnish the examiners with one hundred copies of this act; one of which copies, signed by three of the said examiners, shall be delivered to each pilot.

Repealing clause.

XXIX. ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Commencement of this act.

XXX. THIS act shall commence and be in force, from and after the first day of April next.

CHAP. CCLXXXVIII.

An Act to amend an act, intituled, An act empowering the Governor to transport Slaves condemned when it shall be deemed expedient.

[Passed the 22d of December, 1801.]

I. BE *it enacted by the General Assembly*, That so soon as the Executive shall determine on the sale or transportation of any slave or slaves under the act, intituled, "An act to empower the governor to transport slaves condemned when it shall be deemed expedient," the owner or owners thereof shall be immediately paid in the same manner as for slaves executed. Any law to the contrary notwithstanding.

Owners to be paid for their slaves directed by the Executive to be sold or transported.

II. THIS act shall be in force from and after the passing thereof.

Commencement of this act.

CHAP. CCLXXXIX.

An Act concerning the Glebe Lands and Churches within this Commonwealth.

[Passed the 12th of January, 1802.]

I. WHEREAS the General Assembly on the twenty-fourth day of January one thousand seven hundred and ninety-nine, by their act of that date, repealed all the laws relative to the late Protestant Episcopal Church, and declared a true exposition of the principles of the Bill of Rights and Constitution respecting the same, to be contained in the act, intituled "An act for establishing religious freedom," thereby recognizing the principle, that all property formerly belonging to the said church, of every description, devolved on the good people of this commonwealth, on the dissolution of the British government here, in which the same degree in which the right and interest of the said church was derived therein from them. And although the General Assembly possesses the right of authorising a sale of all such property indiscriminately, yet being desirous to reconcile all the good people of this commonwealth, it is deemed inexpedient at this time to disturb the possession of the present incumbents:

Preamble.

II. *BE it therefore enacted by the General Assembly*, That the Overseers of the Poor and their successors, or a majority of them within each county of this commonwealth, wherein any glebe land is vacant, or shall become so, by the death or removal of any incumbent, shall have full power and authority, and they or a majority of them are hereby directed, on giving at least thirty days public notice, at the front door of the courthouse of their county, to sell all such lands and appurtenances, and every other species of property incident thereto, on the premises, to the highest bidder, on twelve months credit, taking bond with good security for the amount thereof payable to themselves and their successors; provided that no sale of any such property shall take place, where any person is in possession thereof, under a lease from any person or persons in behalf of the said church, whether called trustees or not, prior to the passing of this act, until the said lease shall expire; and all sums of money or tobacco due thereon, or to become due, shall be recovered by action in the names of the said Overseers of the Poor or their successors, in any court of record within this commonwealth; that the said Overseers of the Poor, or a majority of them conducting every such sale, or their successors, on receiving satisfactory security for the amount thereof, be, and they are hereby authorised and directed, to convey all such property sold by them as aforesaid, to the purchaser or purchasers thereof, by good and sufficient deeds for that purpose; that in all cases where any person or persons may have received any sum or sums of money or tobacco, for the use of the Episcopal church as established under the former government, and shall not have paid the same as directed by law, the said Overseers of the Poor and their successors, or a majority of them, shall be entitled to receive the same, and on non-payment thereof, to recover it by action in any court of record within this commonwealth: That when any person or persons, other than an incumbent or his tenant, shall have had the use of any glebe land or other property incident thereto, and may not regularly have accounted for the profits of the same, they shall hereafter account to the said Overseers of the Poor or a majority of them, of the county in which such property lies, and in case any such person or persons, their executors or administrators refuse to account accordingly, the said Overseers of the Poor or their successors

Overseers of the poor to sell glebe lands in certain cases.

To execute deeds therefor.

To recover debts due for the use of the church.

Rates for piloting ships of war.

taking charge of a ship of war shall be entitled to receive in lieu of pilotage allowed by this act, the following prices: For ships of war above fifty guns, from Cape Henry to Hampton road twenty dollars; for ships under fifty and above twenty guns fifteen dollars; from Cape Henry to York town, for ships above fifty guns twenty-four dollars; ships under fifty guns and above twenty guns eighteen dollars; from Cape Henry to any river on Mobjack bay twenty-five dollars; from the cape to Smith's point on South Potomack forty-five dollars, and the same prices back.

Allowance to pilots detained by the vessel's not being ready.

XVIII. AND when any master of a vessel shall give reasonable notice to the pilot he shall employ, of the time and place such master shall appoint for his attendance, and such pilot shall attend accordingly, he may demand and receive one dollar and seventy-five cents for every day he shall be detained by such master's not being ready to proceed according to his notice.

XIX. AND in all cases hereafter, when a vessel shall be outward bound and anchored in Hampton road, and the master shall detain a pilot, after a fair wind offers for going to sea, such pilot shall be entitled to demand one dollar and seventy-five cents for every day he shall be detained: *Provided*, That the same shall not extend to vessels falling down into Hampton road, and not intending immediately to proceed to sea; in which case the master may discharge the pilot.

Penalty on pilots refusing to do their duty.

XX. AND if any pilot, not being hindered by sickness or other lawful cause, shall refuse when requested by the master of any vessel, to go on board and conduct her, such pilot shall upon complaint and satisfactory evidence before the board of examiners, be suspended for such time as they shall think fit; And if any injury shall arise to the master in consequence of such refusal, such pilot shall be answerable to him for all damages, to be recovered by action in any court of record within this commonwealth.

Allowance to pilots carried to sea.

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Penalty for demanding more than legal fees.

if any pilot shall demand, or receive greater fees for any services rendered, under the authority of this act, than he is allowed, he shall forfeit and pay to such master or owner double the amount by him received, to be recovered by action of debt in any court of record within this commonwealth.

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Examiners to be furnished with copies of this act.

XXVIII. THE public printer shall furnish the examiners with one hundred copies of this act; one of which copies, signed by three of the said examiners, shall be delivered to each pilot.

Repealing clause.

XXIX. ALL and every act and acts, clauses and parts of acts, coming within the purview of this act, shall be and the same are hereby repealed.

Commencement of this act.

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CHAP. CCLXXXVIII.

An Act to amend an act, intituled, An act empowering the Governor to transport Slaves condemned when it shall be deemed expedient.

[Passed the 22d of December, 1801.]

I. BE *it enacted by the General Assembly*, That so soon as the Executive shall determine on the sale or transportation of any slave or slaves under the act, intituled, "An act to empower the governor to transport slaves condemned when it shall be deemed expedient," the owner or owners thereof shall be immediately paid in the same manner as for slaves executed. Any law to the contrary notwithstanding. Owners to be paid for their slaves directed by the Executive to be sold or transported.

II. THIS act shall be in force from and after the passing thereof. Commencement of this act.

CHAP. CCLXXXIX.

An Act concerning the Glebe Lands and Churches within this Commonwealth.

[Passed the 12th of January, 1802.]

I. WHEREAS the General Assembly on the twenty-fourth day of January one thousand seven hundred and ninety-nine, by their act of that date, repealed all the laws relative to the late Protestant Episcopal Church, and declared a true exposition of the principles of the Bill of Rights and Constitution respecting the same, to be contained in the act, intituled "An act for establishing religious freedom," thereby recognizing the principle, that all property formerly belonging to the said church, of every description, devolved on the good people of this commonwealth, on the dissolution of the British government here, in the same degree in which the right and interest of the said church was derived therein from them. And although the General Assembly possesses the right of authorising a sale of all such property indiscriminately, yet being desirous to reconcile all the good people of this commonwealth, it is deemed inexpedient at this time to disturb the possession of the present incumbents: Preamble.

II. *BE it therefore enacted by the General Assembly*, That the Overseers of the Poor and their successors, or a majority of them within each county of this commonwealth, wherein any glebe land is vacant, or shall become so, by the death or removal of any incumbent, shall have full power and authority, and they or a majority of them are hereby directed, on giving at least thirty days public notice, at the front door of the courthouse of their county, to sell all such lands and appurtenances, and every other species of property incident thereto, on the premises, to the highest bidder, on twelve months credit, taking bond with good security for the amount thereof payable to themselves and their successors; provided that no sale of any such property shall take place, where any person is in possession thereof, under a lease from any person or persons in behalf of the said church, whether called trustees or not, prior to the passing of this act, until the said lease shall expire; and all sums of money or tobacco due thereon, or to become due, shall be recovered by action in the names of the said Overseers of the Poor or their successors, in any court of record within this commonwealth; that the said Overseers of the Poor, or a majority of them conducting every such sale; or their successors, on receiving satisfactory security for the amount thereof, be, and they are hereby authorised and directed, to convey all such property sold by them as aforesaid, to the purchaser or purchasers thereof, by good and sufficient deeds for that purpose; that in all cases where any person or persons may have received any sum or sums of money or tobacco, for the use of the Episcopal church as established under the former government, and shall not have paid the same as directed by law, the said Overseers of the Poor and their successors, or a majority of them, shall be entitled to receive the same, and on non-payment thereof, to recover it by action in any court of record within this commonwealth: That when any person or persons, other than an incumbent or his tenant, shall have had the use of any glebe land or other property incident thereto, and may not regularly have accounted for the profits of the same, they shall hereafter account to the said Overseers of the Poor or a majority of them, of the county in which such property lies, and in case any such person or persons, their executors or administrators refuse to account accordingly, the said Overseers of the Poor or their successors Overseers of the poor to sell glebe lands in certain cases. To execute deeds therefor. To recover debts due for the use of the church.

Incumbent and tenants restrained from committing waste in glebe lands, &c. and from removing the personal property.

may sue for and recover the same in any court of record within this commonwealth. That in all cases where such property is in possession of any incumbent or his tenant, either or both of them shall be restrained from the commission of waste, in like manner as other tenants for life or years may be by the said Overseers or their successors, in whom the right of action for that, and the purpose of carrying this act into effect, is hereby vested. That in every case where the Overseers of the Poor or any one or more of them in any county, shall have good reason to believe that the incumbent therein shall be about to remove any or the whole of the personal estate, which he holds as formerly belonging to the Episcopal church, from such county, they or any one or more of them shall upon application to any magistrate therein, obtain from him an attachment, which he is hereby authorised to grant, against the estate so about to be removed, upon the execution of which, and the return thereof being made to the next court of such county, the said court may compel the said incumbent on due proof thereof, to give bond with sufficient security, not to remove the said property or any part thereof, from the premises, and in case of refusal, the said court may order the said property to be delivered to the said Overseers of the Poor and their successors or a majority of them, to be by them disposed of as in other cases: That in all cases where there shall be any just demand unpaid by any parish, the said Overseers of the Poor and their successors, or a majority of them, in every county comprehending such parish or the greater part thereof, shall from any of the funds aforesaid, before they are otherwise applied, pay the same; and shall then be entitled to a credit with the Overseers of the Poor of the county comprehending the residue of such parish, for their proportion thereof: That in cases where a glebe shall be in, or a parish run into, more counties than one, the Overseers as aforesaid of the county wherein the glebe or the greater part thereof shall lie, shall sell the same as aforesaid; and in all cases the said Overseers and their successors, or a majority of them, shall appropriate the money arising therefrom either to the poor of such parish or to any other objects, which a majority of the freeholders and house-keepers therein may direct, by a writing from under their hands directed to the said Overseers: And in all other cases the money arising therefrom as aforesaid, shall be by the said Overseers of the poor or a majority of them in the counties respectively, applied in like manner, unless directed otherwise as aforesaid; *Provided*, That nothing herein contained shall authorise an appropriation to any religious purpose whatsoever. That the said Overseers of the Poor or a majority of them, or their successors, shall meet as often as they may deem it necessary, for the purpose of carrying this act into effect: That the Overseers of the Poor, and their successors in each county where any such property remains, shall perform all the duties required of them respectively by this act, under the penalty of two hundred dollars each, to be recovered in any court of record, by any one who will sue for the same. That the said Overseers and their successors or a majority of them, who shall perform the duties hereby required, shall be entitled to receive for advertising, selling and conveying, any of the said property, a commission of three per cent. and for collecting and appropriating any of the funds by them received, three per cent. more; and shall be accountable to their successors as in other cases. That nothing herein contained shall authorise a sale of the churches and the property therein contained, or the church yards, nor in any manner affect* any private donation made prior to the first day of January, one thousand seven hundred and seventy-seven for church and other purposes, where there is any person in being entitled to take the same under any private donor; nor to affect the property of any kind which may have been acquired by private donations or subscriptions by the said church, since the date last mentioned.

Overseers of poor to pay debt due from parishes.

A glebe lying in more counties than one, how to be sold.

Appropriation of the money.

Compensation to overseers of the poor.

This act not to affect private donations in certain cases.

III. THIS act shall commence and be in force from and after the passing thereof.

Commencement of this Act.

* effect *in the roll.*

CHAP. CCXC.

An Act to amend the fixth fection of the act for reducing into one the feveral acts concerning the Land-Office; afcertaining the terms and manner of granting waſte and unappropriated land; for ſettling the titles and bounds of lands, directing the mode of proceſſioning, and preſcribing the duty of Surveyors.

[Paſſed the 15th of January, 1802.]

Preamble. I. WHEREAS it hath been repreſented to this preſent General Aſſembly, that many perſons have located, and lay claim in conſequence of ſuch location, to the banks, ſhores, and beds of the rivers and creeks in the weſtern parts of this commonwealth, which were intended and ought to remain as a common, to all the good people thereof:

Grants for beds of rivers, &c, not valid. II. *BE it therefore enacted*, That no grant iſſued by the regiſter of the land-office for the ſame, either in conſequence of any ſurvey already made, or which may hereafter be made, ſhall be valid or effectual in law to paſs any eſtate or intereſt therein.

Commencement of this act. III. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCXCI.

An Act to amend and explain the act concerning Public Roads.

[Paſſed the 16th of January, 1802.]

Preamble. I. WHEREAS it appears that the power of diſcontinuing roads ought under certain limitations to be veſted in the courts of this commonwealth.

County courts may diſcontinue roads in certain caſes. II. *BE it therefore enacted*, That the different county courts ſhall have power to diſcontinue any public road, whenever the ſame ſhall ceaſe to be a public convenience. Any perſon intending to apply for the diſcontinuance of a road, ſhall give one month's notice in ſome public paper, and advertiſe the ſame at the door of the courthouſe of that county through which the road paſſes. On application to any county court for diſcontinuing a road, the ſaid court ſhall direct their ſheriff to impannel a jury of twelve diſintereſted freeholders, who ſhall view the ſame, being firſt ſworn, and on their oaths ſay, whether in their opinion public inconvenience would reſult from diſcontinuing the ſame. The jury ſhall certify their opinion under their hands, and deliver it ſealed to the ſheriff, who ſhall return it to the court, who thereupon, as well as upon other evidence, ſhall have full power to keep open or diſcontinue the ſaid road. Nothing in this act ſhall be conſtrued to authoriſe any county court to diſcontinue any public poſt road, nor to abridge or alter the power they now poſſeſs of diſcontinuing roads, by ſubſtituting others in lieu thereof.

Owners of coal mines placed on footing with owners of mills, &c. III. AND whereas it appears reaſonable that the owners of coal mines, ſhould be placed on the ſame footing with the owners of mills, warehouſes, ferries and iron works, and be equally entitled to the benefit of convenient roads. *Be it further enacted*, that the owners of coal mines ſhall be entitled to obtain roads for the carriage of their coal, in the mode preſcribed by law to the owners of mills, ferries, warehouſes and iron works.

Commencement of this act. IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCXCII.

An Act to prevent the Burning of the Woods.

[Paſſed the 16th of January, 1802.]

Preamble. I. WHEREAS it has been repreſented to this General Aſſembly, that great injuries have been ſuſtained by individuals, from the practice of ſetting the woods on fire within this commonwealth:

Puniſhment of perſons for ſetting the woods on fire. II. FOR remedy whereof, *Be it enacted*, That if any perſon or perſons ſhall ſet the woods on fire, unleſs by accident, or in any manner be concerned therein, every ſuch perſon ſhall pay a fine of thirty dollars for every ſuch offence, to be recovered in any court of record within this commonwealth, by any perſon who will ſue for the ſame, one half thereof to the uſe of the informer,

and the other to the use of the county wherein the offence was committed, to be applied towards lessening the levy; And if any such person be an infant under the years of eighteen, the said fine may be recovered in like manner of his parent, guardian, or master; and if any such person be a free negro or mulatto, and unable to pay the said fine, he shall receive thirty lashes by order of any justice of the peace. This act shall not extend to the counties of Nansemond, Southampton and Isle of Wight.

This act not to extend to certain counties.

III. THIS act shall commence and be in force, from and after the first day of March next.

Commencement of this act.

CHAP. CCXCIII.

An Act authorising Flour manufactured in this State, to be carried to the District of Columbia.

[Passed the 18th of January, 1802.]

Lawful to carry flour without inspection to the district of Columbia.

I. BE *it enacted by the General Assembly*, That it shall and may be lawful for any person or persons to send or carry by land or upon the waters of the Potowmac, to the District of Columbia, without being inspected, any flour made or manufactured within this commonwealth. Any law to the contrary notwithstanding.

Commencement of this act.

II. THIS act shall be in force, from the passing thereof.

CHAP. CCXCIV.

An Act to amend an act intituled, an act, reducing into one the several acts making provision for the restraint, support and maintenance of Ideots and Lunatics, and the preservation and management of their estates.

[Passed the 18th of January, 1802.]

Committees to account with auditor for expenses of lunatics.

I. BE *it enacted by the General Assembly*, That the committee of the estate of an ideot or lunatic removed to the hospital in the city of Williamsburg, shall account with the Auditor of Public Accounts and pay into the Treasury, as well what he may be liable to pay for the expenses attending the removal of such ideot or lunatic, as for his or her annual support while in the hospital; and the bond of such committee shall in all future cases be so changed as to make him account and pay as aforesaid, and the said committee shall account for and pay the said expenses of removal and the first year's support of such ideot or lunatic, within twelve months after the date of his bond, and the allowance for his or her annual support on or before the same day in each year thereafter, so long as the said ideot or lunatic shall remain in the hospital.

Clerks of courts to send auditor copies of bonds of committees, &c.

II. *BE it further enacted*, That the clerk of the court by whom the committee shall be appointed to an ideot or lunatic so removed as aforesaid, within six months thereafter, shall transmit to the Auditor, a certified copy of the bond of such committee, and also of the order of such court relative to said ideot or lunatic, and his estate; and the court of directors shall, whenever an ideot or lunatic shall be received into such hospital, certify to the Auditor an account of the expenses attending his or her removal, and also the sum allowed for his or her annual support, and when any such ideot or lunatic shall be discharged, the court of directors shall certify the same to the Auditor of public accounts, which copy of the bond of a committee with the order of the court aforesaid, and the certificate of the court of directors may be given, and shall be received, as evidence against any such committee on a motion made against him under this act; and if any such committee shall fail to account and pay into the Treasury as aforesaid, the expenses attending such removal and the allowance for the annual support of such ideot or lunatic so long as he or she shall remain in the said hospital, then and in that case the Auditor shall be, and he is hereby authorised and required, forthwith to recover of such committee by motion in the General court, the sum due on account of such ideot or lunatic: *Provided always*, that twenty days previous notice be given to such committee of the said motion.

Court of directors to certify to auditor an account of lunatics' expenses, &c.

Proceedings against committee for neglect of duty.

Repealing clause.

III. ALL acts and parts of acts, coming within the purview of this act, are hereby repealed.

IV. *PROVIDED*, that when an ideot or lunatic shall be sent to the hospital and a committee shall be appointed, no suit or action depending against such ideot or lunatic shall abate, but a scire facias shall issue against the committee, and the same proceedings shall be had thereupon against such committee as if the said suit or action had originally been brought against him, and the judgment shall be entered up against him, upon which a fieri facias only shall issue, to be levied of the goods and chattels of the ideot or lunatic in the hands of such committee. And when an ideot or lunatic shall be discharged from the hospital, no suit depending against his committee shall abate, but a scire facias as aforesaid shall issue against the person so discharged; and the same judgment shall be had against him or her in the same manner as if such suit had been originally brought against him or her. Suits against ideots, &c. removed to hospital to be revived against committees.

V. THIS act shall commence and be in force from and after the passing thereof. Commencement of this act.

CHAP. CCXCV.

An Act to direct the mode of proceeding under Executions in certain cases.

[Passed the 19th of January, 1802.]

I. WHEREAS doubts exist, whether on the death of the sheriff or other officer, who may have taken property under execution, which may remain unsold at the time of his death, there is any mode to compel a sale of such property: Preamble.

II. *BE it enacted therefore by the General Assembly*, That in all cases in which a sheriff or other officer, taking property under execution, shall die before he sells such property, it shall be lawful for the clerk of the court from which such execution issued, and he is hereby required to issue a *venditioni exponas*, directed to the sheriff or serjeant of the county or corporation in which the property was taken under execution; and the said sheriff or serjeant shall under the said *venditioni exponas*, receive the property from the representatives of the former sheriff or other officer, who are hereby required to deliver such property to the said sheriff, upon his producing the *venditioni exponas*, and executing to them a receipt for the property; and the said sheriff shall proceed to sell such property, in the manner prescribed by law in other cases of *venditioni exponas*. Property under execution and in possession of a sheriff at the time of his death, how to be sold.

III. *AND be it further enacted*, That if the representatives of the deceased sheriff, shall refuse or neglect to deliver to the sheriff, the property so taken under execution, by their testator or intestate, upon the sheriff's producing the *venditioni exponas*, or if after the expiration of three months from the death of the said sheriff or collector, there be no executor or administrator of the same, he shall return the truth of the case upon the said writ; upon which return the plaintiff (or if it be a case of the commonwealth, the Auditor) may at their option, have an execution, by virtue of which the sheriff or other officer, may seize the property taken by the former sheriff or other officer, wherever it may be found, and sell the same, in the manner prescribed by law under similar executions; or the said plaintiff or auditor, as the case may be, may move in the court from which the original execution issued, against the representatives of the deceased sheriff, or other officer; upon which motion judgment shall be entered up against the representatives of the deceased sheriff or other officer, for the amount of the execution, which came to the hands of their testator or intestate, with lawful interest on the same, and the costs of said motion. *Provided always*, that the execution issuing on such judgment, shall be levied on the estate of the said deceased sheriff in the hands of his representatives, who shall in all cases have ten days previous notice of the time and place of making such motion. Proceedings where such property be not delivered to sheriff.

IV. *AND be it further enacted*, That the sheriff or other officer discharging the duties prescribed by this act, shall have the same powers, receive the same fees and commissions, and be liable to the same penalties as in other cases. Allowance to, and penalty upon sheriffs proceeding under this act.

V. *AND be it further enacted*, That an affidavit in writing of the delivery of an execution on behalf of the commonwealth, to any sheriff or other officer authorised to levy the same, shall be sufficient evidence to render judg- On what evidence sheriffs may be fined for not returning commonwealth's executions.

ment for the fine, in case such execution shall not be returned within the time limited by law.

Commencement of this Act.

VI. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXCVI.

An Act concerning the distribution of unbequeathed Personal Estate.

[Passed the 22d of January, 1802.]

Who may succeed to infants in certain cases.

I. BE *it enacted by the General Assembly*, That when an infant having title to personal estate, shall die before attainment of the age, when one may legally bequeath that kind of property, or after attaining such age, shall die without bequeathing it, those of his or her kindred shall succeed to the said infant, who would have succeeded, if he or she had been, at the time of his or her death, of the age of twenty-one years.

Commencement of this act.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCXCVII.

An Act concerning the High Court of Chancery.

[Passed the 23d of January, 1802.]

Preamble.

I. WHEREAS the delays inseparable from the present High Court of Chancery are often equal to a denial of justice,

Commonwealth divided into three districts.

II. *BE it enacted by the General Assembly*, That this commonwealth shall be divided into three districts, and a superior court of Chancery shall be holden in each district in the manner and at the times hereafter mentioned; that is to say: The counties of Berkeley, Jefferson, Frederick, Shenandoah, Rockingham, Augusta, Rockbridge, Botetourt, Montgomery, Wythe, Washington, Russell, Lee, Grayson, Kanawha, Greenbrier, Monroe, Hampshire, Hardy, Pendleton, Ohio, Bath, Monongalia, Harrison, Brooke, Wood, Randolph and Tazewell, shall compose one district, and a superior court of Chancery shall be held therefor at Staunton, on the twentieth day of March, on the first day of July, and on the fifteenth day of November in every year:—The counties of Albemarle, Amelia, Amherst, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charlotte, Chesterfield, Cumberland, Culpeper, Dinwiddie, Fauquier, Fairfax, Fluvanna, Franklin, Goochland, Greensville, Halifax, Hanover, Henrico, Henry, King-George, King-William, Loudoun, Louisa, Lunenburg, Madison, Mecklenburg, Nottoway, Orange, Patrick, Pittsylvania, Powhatan, Prince-Edward, Prince-William, Prince-George, Spottsylvania and Stafford, shall compose another district, and a superior court of Chancery shall be held therefor, at the Capitol in the city of Richmond, on the first day of March, on the twelfth day of May, and on the tenth day of September in every year:—The counties of Accomack, Charles City, Elizabeth City, Essex, Gloucester, Isle of Wight, James City, King and Queen, Lancaster, Mathews, Middlesex, Nansemond, New-Kent, Norfolk, Northampton, Northumberland, Princess-Ann, Richmond, Southampton, Surry, Sussex, Warwick, Westmoreland and York, shall compose another district, and a superior court of Chancery shall be held therefor, at the former capitol in the city of Williamsburg, on the first day of April, on the first day of July, and on the twelfth day of October in every year; and if any of the said days be Sunday, the courts shall in that case begin on the succeeding day. Each court shall sit, if business requires, twenty-four days (Sundays excluded) and shall be a court of record.

A chancery court to be holden at Staunton,

Richmond,

and Williamsburg.

Length of sessions.

Counties hereafter made to what districts to be annexed.

III. THE counties which shall hereafter be made, shall remain in the same district to which they formerly belonged; and if taken from different districts shall be annexed to that district most convenient to the courthouse of the said new made county.

Judges how to be appointed.

IV. ONE Judge shall be elected for each of the said courts, by joint ballot of the Senate and House of Delegates; who shall be commissioned in the manner directed by the constitution of this commonwealth.

To reside at the place of holding courts

V. EACH Judge shall reside at the place where the court of the district for which he may be elected, shall be holden.

How to be qualified.

VI. EVERY Judge ſo commiſſioned, before he enters upon the duties of his office, ſhall take and ſubſcribe the oath of fidelity to this commonwealth, and the oath preſcribed by law for the Judge of the High Court of Chancery: Such oath ſhall be taken before the Executive, and a certificate thereof recorded, in the court of that diſtrict to which the ſaid Judges ſhall reſpectively belong. If any perſon ſhall preſume to execute the ſaid office of Judge without having taken the ſaid oaths, he ſhall forfeit and pay the ſum of fifteen hundred dollars for ſuch offence.

Their juriſdiction and powers.

VII. THE courts hereby eſtabliſhed and each of the Judges thereof in term time, as well as in vacation, ſhall be ſubject to the ſame rules and regulations, and ſhall have and exerciſe the ſame juriſdiction and powers within their reſpective diſtricts, in all and every matter and thing, as the high court of Chancery or the Judge thereof poſſeſſed on the firſt day of January in the year eighteen hundred and two, including the mode of arranging the buſineſs in the ſaid courts, of iſſuing proceſs, ſerving and returning the ſame, entering and enforcing decrees, granting and receiving appeals general and ſpecial, writs of *ne exeat*, injunctions, bills of review general and ſpecial, appointing clerks and officers, ſubject only to the ſame conſtitutional and legal reſtrictions and limitations as the ſaid High Court of Chancery was then bound by.

Fees and ſalaries to clerks and other officers.

VIII. THE clerks and other officers of the ſaid courts ſhall be entitled and authoriſed to receive and demand the ſame fees and ſalaries as the clerk and other officers of the ſaid high court of Chancery are now entitled to receive and demand; and the clerks ſhall deliver their liſts of fees to the ſheriffs of the different counties of this commonwealth at the ſame time the clerk of the high court of Chancery is now authoriſed to do; and ſhall have the ſame remedy againſt ſheriffs or their repreſentatives, ſhould their ſaid fees not be accounted for within the time limited by law as the clerk of the high court of Chancery now hath, for which collection they ſhall receive the ſame compenſation as is now allowed by law for collecting and accounting for the fees of the clerk of the High Court of Chancery.

How cauſes depending in high court of chancery to be arranged and papers delivered.

IX. ALL cauſes which ſhall be depending in the high court of Chancery on the firſt day of February next, ſhall be arranged by the clerk thereof, according to the diſtricts herein deſcribed, and with the papers therein, delivered by him to the clerks of the different diſtricts hereby eſtabliſhed, together with the ſtate of the coſts which may have accrued in each ſuit to the time of ſuch delivery.

How ſuits wherein a chancery judge is intereſted may be brought.

X. IF either of the Judges of the ſaid courts be intereſted in any ſuit, which in the caſe of any other perſon would have been proper for the juriſdiction of his court, it ſhall be lawful to inſtitute ſuch ſuit in any adjacent diſtrict court of chancery, and the proceſs from ſuch adjacent court may be ſerved in the diſtrict in which the ſaid judge ſhall reſide, and ſuch proceedings ſhall be thereupon had as in other caſes in Chancery.

Proceſs ſued out of chancery courts how to be iſſued and ſerved.

XI. ALL proceſs to enforce the execution of any decree, may be iſſued from any one of the clerk's offices of the ſaid diſtrict courts to the ſheriff of any county within this ſtate, and ſhall by him be executed and returned in the ſame manner, as if the ſame had iſſued from the clerks office of the diſtrict in which he may reſide.

Where there are ſeveral defendants they may be ſued in diſtrict where either reſides.

XII. WHEREVER there may be more than one defendant in a ſuit, the plaintiff or plaintiffs as the caſe may be, ſhall have liberty to inſtitute his, or their ſuit in that diſtrict where either of the defendants may reſide, and in ſuch caſe the clerk of the court, in which ſuch ſuit is inſtituted, ſhall iſſue a ſubpœna to the ſheriff or ſheriffs of the county or counties out of the diſtrict where the other defendant or defendants may reſide, authoriſing him or them as the caſe may be, to execute and return the ſame; and the ſame being returned, the like proceedings may be had thereon, as if the defendant or defendants reſided within the diſtrict where the ſuit is inſtituted.

Judge of high court of chancery to be judge of Richmond diſtrict.

XIII. THE preſent Judge of the high court of Chancery ſhall be the Judge of the diſtrict court to be holden in the city of Richmond.

Repealing clauſe.

XIV. ALL laws contrary to the purview hereof, and particularly thoſe relative to the preſent high court of Chancery, ſhall be and are hereby repealed, ſo far as they go to inveſt that court with powers and a juriſdiction extending over the whole of this commonwealth.

Commencing clauſe.

XV. THIS law ſhall commence and be in force from and after the paſſing thereof.

CHAP. CCXCVIII.

An Act supplemental to the act intituled an act concerning the High Court of Chancery.

[Passed the 2d of February, 1802.]

Clerk of Richmond chancery district court to arrange papers of high court of chancery and transmit them to the several district courts.

I. BE *it enacted by the General Assembly*, That the clerk of the chancery district court to be held in Richmond, by virtue of the act intituled an act concerning the high court of chancery, shall take into his possession and keeping, all the records and papers of the last mentioned court, and in the arrangement of the causes and suits depending in the said high court of chancery on the first day of February eighteen hundred and two, he shall send the original papers, with certified copies of all orders, and interlocutary decrees, in each suit or cause, to the chancery court of that district within which the defendant shall reside, if there be but one, but if there be two defendants, then to the chancery court of that district, within which the first named defendant in the plaintiff's bill shall reside, and if there be more than two, then to that district in which the majority reside; but if the number of defendants be equal in several districts, then to that district in which the defendant first named in the plaintiff's bill shall reside; if the defendant or defendants, in any cause or suit so depending, be not resident within the state, it shall be retained in the chancery district court of Richmond, unless the plaintiff shall be a resident in the state, and in that case, the papers with copies of the orders and interlocutory decrees, if any, shall be sent to the chancery court of that district within which the plaintiff, if there be but one, or the first named plaintiff in the bill if there be more than one, shall reside. All causes and suits, shall be acted on, and proceeded in, by the chancery district courts to which they shall be sent, in the same manner, as they would have been proceeded in, and acted on in the said high court of chancery, had the said recited act, not have been made; the several orders and interlocutory decrees made in the suits or causes, to be sent to the several chancery district courts shall have the same force, effect and obligation, as if entered by the court to which they shall be sent.

Rules to be observed in the arrangement.

Causes sent to district courts how to be acted on.

Copies of decisions upon appeals from final decrees of high court of chancery to be sent to Richmond district court.

II. IN all cases where appeals have been taken or entered, from final decrees in the said high court of chancery, and are still pending in the court of appeals, a copy of the decree of the court of appeals when made, shall be certified by the clerk, to the chancery district court of Richmond, and the Judge of the said court, shall have full power and authority, to enforce the said decree wherever the parties may reside.

Also from interlocutory decrees.

III. THE papers in suits or causes, where appeals are pending in the court of appeals, from interlocutory decrees in the high court of chancery heretofore rendered, shall be retained in the chancery district court of Richmond, until a decision shall take place in the court of appeals, and it shall be the duty of the clerk of the said court, to transmit a copy of such decision or decree, when made, to the chancery district court of Richmond; and if the same be final, the said court shall have full power to enforce and carry into effect the said decision or decree, wherever the parties may reside; but if the said decision or decree shall not be final, then on the receipt of a copy of the decision or decree of the court of appeals, the clerk of the chancery district court of Richmond, shall send the original papers, with a copy of all orders and interlocutory decrees therein, with a copy of the decision or decree, of the court of appeals, to the chancery court of that district in which the parties may reside, according to the directions herein before contained, to be proceeded on therein as if the said suit or cause, had been originally there instituted.

Proceedings thereupon.

Richmond district court to enforce decrees rendered by high court of chancery.

IV. *BE it further enacted*, That the chancery district court of Richmond, shall have full power and authority, and is hereby authorised, to proceed to enforce and carry into effect, all decrees heretofore rendered in the said high court of chancery, and may award executions on forthcoming bonds taken on executions issued on, or which may issue on, decrees heretofore rendered in the said court, and may issue writs of scire facias to revive former decrees of the said court, in the same manner as the said high court of chancery might have done had the said recited act not have passed; and all injunctions awarded by the Judge of the high court of chancery previous to the first day of February eighteen hundred and two, may be issued by the clerk of the said court, in like manner

How injunctions awarded by judge of high court of chancery to be issued and arranged.

* receive *in the roll.*

ner as if the said recited act had not passed, to be arranged and allotted as is prescribed in other cases of injunction herein after mentioned.

Process for contempt issued from district courts may run into any part of the state.

V. ALL process for contempt, issued from either of the chancery district courts, may run into any part of the state, and shall be executed in like manner as such process may be executed within the district, and shall be returned to the court from whence such process issued.

Papers in injunctions depending in high court of chancery to be sent to district courts.

VI. THE papers in all injunctions depending in the said high court of chancery, on the first day of February eighteen hundred and two, shall be sent, with copies of all orders and interlocutory decrees therein made, to the chancery court of that district within which the judgment enjoined, was rendered.

Clerks to reside where the courts are held.

VII. THE clerks of the chancery district courts shall reside and keep the records and papers of the said court, at the places of holding the said courts whereto they shall respectively belong.

How process to bear teste and be returnable

VIII. ALL processes whatsoever, issuing from either of the chancery district courts, shall bear teste of the clerk of such court, and shall be made returnable to the first, or seventeenth days of the succeeding term of such court.

Judges may appoint commissioners.

IX. THE Judge of each of the chancery district courts, shall have power to appoint one or more commissioners, whose fees shall be determined and paid, in the same manner, as the fees of the commissioners of the high court of chancery have heretofore been determined and paid.

Compensation to clerk for arranging papers, &c.

X. *BE it enacted*, That the clerk for the arrangement of the papers, and transmitting them to the several chancery district courts, shall be paid by the treasurer on the warrant of the auditor of public accounts, such sum of money, as the judge of the chancery district court of Richmond, shall certify to be equivalent to his services; and for copying all orders, interlocutory decrees, and for taxing the costs in each cause or suit aforesaid, he shall be allowed and is hereby authorised to charge the same, to the plaintiff or plaintiffs in each suit, at the same rate that he might lawfully charge the same, if he had been required to copy the said orders and interlocutory decrees, and tax the costs by the plaintiff or plaintiffs in each suit, and they shall be recovered and collected as other fees of the said clerk, and if the plaintiff or plaintiffs shall prevail, the said fees shall be recovered of the defendant or defendants, in the said suits respectively.

Penalty on clerk of Richmond district for not performing certain duties.

XI. THAT if the said clerk of the chancery court to be holden in the city of Richmond, shall fail to perform any of the duties required by this or the above recited act of him, he shall forfeit and pay for every such neglect, the sum of one thousand dollars, to be recovered by motion, on ten days notice thereof, by the auditor of public accounts, in the general court, for the use of the commonwealth, which motion shall be made at the instance of any person aggrieved thereby.

Oath of district judges changed.

XII. THAT each of the judges of the chancery district courts of Staunton and Williamsburg, in taking the oath prescribed by the above recited act, shall change the words "*High Court of Chancery*," for the words "*Chancery District Court of Staunton or Williamsburg*," as the case may be.

Fees to counsel.

XIII. THE same fees to counsel and attornies shall be allowed and taxed in the chancery district courts, as were allowed and taxed in the high court of chancery, previous to the passing of the above recited act.

Commencing clause.

XIV. THIS act shall commence and be in force, from and after the passing thereof.

CHAP. CCXCIX.

An Act to fix the Salaries of the Judges in Chancery.

[Passed the 30th of January, 1802.]

Salaries established.

I. BE *it enacted by the General Assembly*, That each of the Chancellors appointed under the act, intituled, "An act concerning the high court of chancery," passed the present session, shall be entitled to have and receive a salary of fifteen hundred dollars per annum, to be paid quarter-yearly out of any money in the public treasury.

Commencing clause.

II. THIS act shall commence and be in force from and after the passing thereof.

CHAP. CCC.

An Act making further provision for furnishing the Public Officers of this Commonwealth, with the Laws thereof.

[Passed the 26th of January, 1802.]

Preamble.

I. WHEREAS Samuel Pleasants, jun. and Henry Pace, Printers in Richmond, have applied to the legislature to aid them in re-printing the last revised code of the laws of this commonwealth, and such other public acts as have passed since that edition was published; and the number of copies of the said revised code allowed and distributed for public use, have been found to be insufficient:

Governor to subscribe for 1000 copies of a new edition of the revised code.

II. *BE it enacted by the General Assembly*, That the Governor be, and he is hereby authorised and required, to subscribe on behalf of the commonwealth, and upon such terms as individuals are permitted to subscribe, for one thousand copies of the edition proposed to be published as aforesaid, the price whereof shall be paid out of the treasury, upon a warrant or warrants to be issued by order of the Executive.

To be considered as authority upon certificate of certain persons.

III. *AND be it further enacted*, That upon a certificate of George W. Smith, John Robinson, James Rind, Adam Craig, and William Wirt, gentlemen, or any two of them, being published with the said laws, stating that they had carefully compared the edition of the acts so to be published with the original laws, and found them to be truly and accurately printed, they shall be received and considered of equal authority in the courts of this commonwealth, as the originals from which they are taken.

Copies taken by public how to be distributed.

IV. THE number of copies so subscribed for, on behalf of the commonwealth, shall be distributed by the Executive among the public officers of this state, in such manner as they shall think best.

Commencement of this act.

V. THIS act shall be in force from the passing thereof.

CHAP. CCCI.

An Act to amend an act, to amend the act, intituled, An act reducing into one, the several acts for regulating the inspection of Flour and Bread.

[Passed the 27th of January, 1802.]

Unnecessary to re-inspect flour in certain cases.

I. BE *it enacted by the General Assembly*, That in all cases where any flour shall be manufactured in any county, of the states of Pennsylvania or of Maryland, adjoining on the boundary line dividing those states, or either of them, from this commonwealth west of the Allegany mountain, and shall have been duly inspected, marked and branded, agreeably to the law or laws of either of the said states, in which the said flour shall have been manufactured, and afterwards shall be stored in any warehouse, within this commonwealth, for the purpose of exportation, it shall not be deemed necessary that the same flour shall be re-inspected previous to such exportation.

Mixed flour to be sold for benefit of commonwealth.

II. *AND be it further enacted*, That if any miller or manufacturer of flour, or other person, shall produce to any inspector, to be by him inspected, marked or branded, any flour which shall be adjudged by such inspector, to be mixed with flour of any other grain than wheat, or with any other substance whatever, the whole of such mixture shall be condemned by such inspector, who shall cause the same to be sold for the benefit of the commonwealth, after giving notice of the time and place of such sale, for three weeks successively, in some public gazette. And moreover, a fine of ten dollars, for each barrel of mixed flour condemned as aforesaid, shall be imposed on any miller or manufacturer of flour, or other person offering the same to be inspected, to be recovered with costs, in any court of record in this commonwealth, on motion of the inspector, the offender having ten days previous notice of such motion, and the inspector shall be allowed for his trouble, and account for the money received by him, in such manner as is now prescribed by law: *Provided always*, That when any person shall think himself aggrieved by the judgment or want of skill of an inspector, he shall be relieved in the manner prescribed by the tenth section of the act, intituled, "An act reducing into one the several acts for regulating the inspection of flour and bread."

Fine for offering same to be inspected.

Deputy inspectors to be approved by a court

III. *AND be it further enacted*, That no person shall be admitted or authorised to act as a deputy to any inspector of flour or bread, until such person

shall have been first nominated to, and approved by the court by whom such inspector shall have been appointed.

IV. ALL acts and parts of acts coming within the purview of this act, shall be and the same are hereby repealed. Repealing clause.

V. THIS act shall commence and be in force from and after the passing thereof. Commencing clause.

CHAP. CCCII.

An Act repealing the act, intituled, An act authorising the Executive to procure arms for the defence of the Commonwealth.

[Passed the 27th of January, 1802.]

1. BE *it enacted by the General Assembly*, That the act passed the twenty-sixth day of December, one thousand seven hundred and ninety-five, intituled, "An act authorising the executive to procure arms for the defence of the Commonwealth," shall be and is hereby repealed. *Provided however*, That no contract entered into by the executive by virtue thereof, shall be affected by this act. Act for procuring arms repealed. Proviso.

II. THIS act shall be in force from the passing thereof. Commencing clause.

CHAP. CCCIII.

An Act changing the mode of proceeding on indictments and informations in certain cases.

[Passed the 28th of January, 1802.]

1. WHEREAS doubts have arisen, whether any information can be filed or indictment for a trespass or misdemeanor be sent to a grand jury, unless the name of a prosecutor be written at the foot of such information or indictment, for removing thereof; Preamble.

II. *BE it therefore enacted by the General Assembly*, That where any information shall be filed by the attorney for the commonwealth, by express order of the court entered of record, the party supposed to be culpable having failed to appear, and shew good cause against such order, having been required so to do by summons, appointing a convenient time for that purpose, served upon him, or left at his usual place of abode, no prosecutor shall be required on such information. Nor shall any such prosecutor be required on an information, or bill of indictment for a trespass or misdemeanor filed or sent to a grand jury, which shall be filed or sent to a grand jury, on, and in consequence of a previous presentment of a grand jury made on their own knowledge, or on the information of any two of their own body. No prosecutor required in certain cases.

III. ALL and every act and acts, clause and clauses of acts, containing any thing within the purview of this act, shall be and are hereby repealed: *Provided always*, That nothing in this act contained, shall be construed to affect any prosecution on an indictment or information which shall have commenced before the passing thereof. Repealing clause. Prosecutions commenced before this act not to be affected.

IV. THIS act shall commence and be in force from and after the passing thereof. Commencing clause.

CHAP. CCCIV.

An Act for calling in and registering Certificates of the Public Debt of this State.

[Passed the 28th of January, 1802.]

1. BE *it enacted by the General Assembly*, That before a warrant shall be issued for the interest on any certificate of a debt due from this state, upon which interest is allowed by law, the owner or holder of such certificate shall deposit the same with the treasurer, who shall grant a receipt therefor, specifying the amount of such certificate, distinguishing the principal from the interest thereof; and upon such receipt being presented to the auditor of public accounts, the said auditor shall, and he is hereby required, to issue a new certificate for the principal, and a warrant for the interest. Owners of certificates to deposit them with treasurer before warrants to issue.

II. *AND be it further enacted*, That if the holder or owner of any certificate of a debt due from this state, shall not on or before the first day of Janu- Interest on certificates to cease after 1802, un-

till depoſited with treaſurer.

ary one thouſand eight hundred and three, make application for a warrant for the intereſt due thereon, ſuch intereſt ſhall ceaſe after that period until the ſaid certificate ſhall be depoſited with the treaſurer as aforeſaid.

Proviſo.

Provided however, that nothing herein contained ſhall be conſtrued to injure or affect the owners or holders of any certificates upon which warrants have been iſſued ſince the firſt day of January one thouſand eight hundred and two, but ſuch perſons ſhall be allowed until the firſt day of January eighteen hundred and four, to depoſit ſuch certificates as aforeſaid.

Certificates to be received for arrears of certain taxes.

III. *AND be it further enacted*, That all certificates of debts due from this commonwealth, upon which intereſt is allowed by law, ſhall be receivable in diſcharge of any arrears of public taxes due prior to the year ſeventeen hundred and ninety-eight.

Treaſurer to keep a regiſter of certificates.

IV. THE treaſurer of this commonwealth ſhall keep in a book or books well bound, a regiſter of all certificates alphabetically arranged, for the principal as aforeſaid, and of ſuch others as from time to time ſhall be paid in diſcharge of taxes, or otherwiſe redeemed, and ſhall alſo carefully file and preſerve the original certificates depoſited with him by virtue of this act, and all others which may be redeemed, ſo that the ſame may be inſpected by the ſucceeding General Aſſembly.

Commencing clauſe.

V. THIS act ſhall be in force, from the paſſing thereof.

CHAP. CCCV.

An Act, to amend the act, intituled, An act to amend an act to reduce into one the ſeveral acts concerning Slaves, Free Negroes and Mulattoes.

[Paſſed the 29th of January, 1802.]

Penalty upon maſters of veſſels for permitting ſlaves to come on board or for dealing with them,

I. BE *it enacted by the General Aſſembly*, That any maſter or ſkipper of a veſſel, who ſhall permit any ſlave to come on board his veſſel without the leave or conſent of the maſter or overſeer, given in writing, or ſhall buy, ſell, or receive of, to, or from a ſlave, any commodity whatſoever, without the leave or conſent of the maſter or overſeer given in writing as aforeſaid, ſhall forfeit and pay for every ſuch offence, in addition to the penalties now impoſed by law, the ſum of twenty dollars, to be recovered by warrant from any magiſtrate of the county or corporation, by any perſon who will proſecute for the ſame; upon ſervice of which warrant, the offender ſhall be taken and remain in cuſtody until judgment; and in caſe of conviction, ſhall be by ſuch magiſtrate committed to the jail of his county or corporation, there to remain until payment of the penalty aforeſaid: *Provided always*, That in caſe the ſkipper of any veſſel be a ſlave, he ſhall receive for every ſuch offence, thirty-nine laſhes on his bare back, to be inflicted by order of any magiſtrate of a county or corporation.

Common bail to be given by maſters of veſſels in actions againſt them for dealing with ſlaves.

II. *AND be it further enacted*, That where an action on the caſe ſhall be brought againſt any maſter or ſkipper as aforeſaid, for dealing with any ſlave, under the ſixteenth ſection of the act of Aſſembly, intituled, "An act to reduce into one the ſeveral acts concerning ſlaves, free negroes, and mulattoes," ſuch maſter or ſkipper ſhall be required to give appearance bail; provided the plaintiff ſhall make affidavit before a magiſtrate of the cauſe of ſuch action, to be tranſmitted to the clerk of the court wherein the ſuit ſhall be proſecuted.

Additional penalty for dealing with ſlaves on the ſabbath,

III. *AND be it further enacted*, That any perſon who ſhall on the ſabbath day, buy, ſell, or receive, of, to or from a ſlave, any commodity whatſoever, without the leave or conſent of the maſter or overſeer of ſuch ſlave given in writing, or ſhall buy, ſell, or receive of, to, or from any free negro or mulatto, any commodity whatſoever, on the day aforeſaid, ſhall in addition to the penalties now impoſed by law, forfeit and pay the ſum of ten dollars, to be recovered by warrant from any magiſtrate of the county or corporation, by any perſon who will proſecute for the ſame.

Commencing clauſe,

IV. THIS act ſhall commence and be in force, from and after the paſſing thereof.

CHAP. CCCIV.

An Act for arranging the Counties of this State into Districts, to choose Representatives to Congress.

[Passed the 30th of January, 1802.]

Arrangement districts.

I. BE *it enacted by the General Assembly*, That the counties of this commonwealth, and the cities and boroughs entitled to representation, shall be divided into twenty-two districts, in manner following, to wit:—The counties of Monongalia, Brooke, Ohio, Harrison, Wood and Randolph, shall compose one district: The counties of Berkeley, Jefferson and Hampshire shall compose another district: The counties of Frederick and Shenandoah shall compose another district: The counties of Rockingham, Hardy, Pendleton, Augusta and Bath shall compose another district: The counties of Greenbrier, Rockbridge, Botetourt, Monroe and Kanawha shall compose another district: The counties of Wythe, Tazewell, Montgomery, Washington, Grayson, Russel and Lee shall compose another district: The counties of Loudoun, Fairfax and Prince-William shall compose another district: The counties of Westmoreland, Richmond, Lancaster, Northumberland, King-George and Stafford shall compose another district: The counties of Fauquier and Culpeper shall compose another district: The counties of Orange, Madison, Louisa and Spotsylvania shall compose another district: The counties of King & Queen, King-William, Essex and Caroline shall compose another district: The counties of York, Middlesex, Mathews, James-City, Gloucester, Warwick, Elizabeth-City, Accomack and Northampton, and the city of Williamsburg shall compose another district: The counties of Franklin, Bedford, Patrick and Henry shall compose another district: The counties of Halifax, Pittsylvania, and Campbell shall compose another district: The counties of Prince-Edward, Charlotte, Buckingham and Cumberland shall compose another district: The counties of Powhatan, Goochland, Amelia and Chesterfield shall compose another district: The counties of Brunswick, Lunenburg and Mecklenburg shall compose another district: The counties of Dinwiddie, Prince-George, including the town of Petersburg, and the counties of Greensville and Nottoway shall compose another district: The counties of Sussex, Southampton, Surry and Isle of Wight shall compose another district: The counties of Norfolk, Princess-Ann, Nansemond and the borough of Norfolk shall compose another district: The counties of Albemarle, Amherst and Fluvanna shall compose another district; and the counties of Henrico, Charles-City, New-Kent, Hanover, and the city of Richmond shall compose another district.

Representatives in congress how to be elected.

II. *AND be it further enacted*, That the persons qualified by law to vote for members to the house of delegates in each county, city and borough composing a district, shall assemble at their respective courthouses, on the fourth Wednesday in April, in the year one thousand eight hundred and three, and also on the fourth Wednesday in April in every second year thereafter, and then and there vote for some discreet and proper person, being a freeholder and resident within such district, as a member of the house of representatives for the United States.

Elections, how to be conducted.

III. THE high sheriff of each county, or in case of his sickness or inability to attend, one of the deputy sheriffs, or the mayor of any city or borough, or in case of his inability to attend, the recorder of each city or borough entitled to representation, shall conduct the said election, at which no determination shall be had by view, but each person qualified to vote, shall fairly and publicly poll, and the name of the voter shall be duly entered under the name of the person voted for, in proper poll books to be provided by the officer conducting the election, for which purpose he shall appoint so many writers as he shall think fit, who shall respectively take an oath, to be administered by him, or make solemn affirmation, that they will take the poll fairly and impartially: He shall deliver a poll book to each writer, who shall enter in distinct columns under the name of the person voted for, the name of each elector voting for such person. Like proclamation and proceeding shall be had for conducting, continuing, and closing the poll in each county of a district, as is prescribed by law in the election of members to the General Assembly; and proclamation shall also be made at the courthouse door, or place of holding such election, of the person having the greatest number of votes on the poll, on the closing thereof. Each elector shall be entitled to the same privilege from arrest, and

Privilege of electors

and penalty for not voting.

be subject to the like penalty and forfeiture for failing to attend and vote at such election, as is prescribed by law, in the case of election of members to the General Assembly. Such failure to attend shall be discovered and proceeded on in like manner, and under the same penalties as is by law provided against such failures in the election of members to the General Assembly.

Duties of returning officers.

IV. IMMEDIATELY after each election in a county, city and borough, held as aforesaid, the clerks of the poll having first signed the same, shall deliver it to the sheriff or other officer who conducted the election, and such sheriff or other officer, together with the respective sheriffs and other officers who conducted the poll of the several counties, cities and boroughs entitled to representation in the district, (but in case of sickness, death or other disability of the officer who shall have conducted the poll, then any other sheriff or officer of the county, and the recorder of any city or borough in which such disability may happen) shall on the eighth day after the election, assemble at the courthouse of the county first named in such district, and then and there compare the polls respectively taken at the elections in their several counties, cities and boroughs, and having ascertained by faithful addition and comparison of the numbers on the respective polls, the person having the greatest number of votes upon the whole, giving their own votes in any case of the two foremost on such poll having an equal number of votes, shall proceed to certify such election under their hands and seals, in manner and form following, to wit: "We A. B. sheriff "of ——— county (or deputy sheriff as the case may be) C. D. sheriff of "——— county (as the case may be) (and so reciting the name of the she- "riff, and whether principal or deputy of each county, and the name of the "mayor or recorder, as the case may be, of each city or borough entitled to re- "presentation in the district) composing one entire district entitled by law to "elect a member to the house of representatives of the United States, do here- "by certify and make known, that at an election held on ——— ——— at the "place of holding elections in our respective counties, cities and boroughs, pur- "suant to law, the electors qualified to vote for members to the house of de- "legates, caused to be chosen one person, to wit: G. H. to represent the said "district as a member of the house of representatives for the United States. "Given under our hands and seals this ——— day of ——— one thou- "sand eight hundred and ———." Two fair duplicates of such certificate and return, shall be made by the said sheriffs and other officers under their hands and seals, in the manner before recited, one of which shall be delivered to the person elected to represent the district, and the other shall be transmitted to the governor and council, within twenty days, under the penalty of three hundred dollars, upon each sheriff or other officer, in case of failure or neglect herein, to be recovered by motion in any court of record, by the auditor of public accounts, to the use of the commonwealth, on ten days previous notice of such motion.

Poll books to be recorded.

V. THE said sheriffs and other officers, shall also under like penalty and recovery, deliver to the clerks of their respective counties, within ten days after such return, the original poll books, to be by such clerk entered of record, under the like penalty for failure, as for failing to record the poll books taken at the election of members to the General Assembly—and where a poll shall be taken in any county which shall not become so until after the election, which shall first be holden in pursuance of this act, the officer conducting such election, shall deliver the poll books by him kept, to the clerk of his county, as the same now stands, to be by him also recorded, under the like penalty.

Certificates of elections to be transmitted to congress.

VI. IT shall be the duty of the Executive to enclose to the congress of the United States, the certificates and returns of elections aforesaid, transmitted to them from the respective districts without delay.

Penalty on sheriffs, &c. for any neglect of duty.

VII. ANY sheriff or other officer, refusing to take the poll when he shall be required by a candidate or elector; or taking it in any other manner than is herein before prescribed; or making or signing a false certificate or return of election, as herein before directed; or making any erasure or alteration in the poll book; or refusing to suffer any candidate or elector at his own expense to take a copy of the poll book, shall forfeit and pay six hundred dollars, which penalties may be recovered with costs in actions of debt, by any person who will sue for the same; one half to his own use, and the other half to the use of the commonwealth.

Penalty for bribing electors.

VIII. ANY candidate or other person in his behalf, who shall directly or indirectly, give or agree to give, any elector or pretended elector, money, meat

drink, or other reward, in order to be elected, or for having been elected, shall forfeit and pay fifteen hundred dollars for each offence; to be recovered with costs, by action of debt, to the use of any person who will sue for the same.

Allowance to sheriffs, &c. conducting elections.

IX. *AND be it further enacted*, That the sheriffs and other officers, shall receive for their trouble and expense in conducting the said elections, one dollar and sixty-seven cents for the day on which they shall attend to compare the different polls, together with an allowance of ferriages, and four cents a mile for travelling to and from the county, in which they shall meet for that purpose, to be paid in the same manner as the electors, who are to vote for a President and Vice President of the United States are paid.

No elector to vote more than once for same candidate.

X. *PROVIDED always*, That no person entitled to suffrage in pursuance of this act, shall during the same election vote more than once for the same candidate, under the penalty of one hundred dollars, to be recovered by action of debt, in any court of record, by any person who will sue for the same, nor shall any such person be admitted to vote in any such election, at the courthouse or other place of holding the election in any county, city or borough in a district, unless the freehold or other estate in right of which he offers to vote, shall lie in that county, city or borough in which he gives his vote.

Magistrates to perform duties of sheriffs in certain cases.

XI. *BE it further enacted*, That in case of the death or absence of any person hereby required to hold an election, the senior magistrate in each county, city or borough respectively, and in his absence, inability or incapacity by being a candidate, the second, and so on in succession to the junior magistrate, is hereby authorised, empowered and required, to perform the duties of the person so dying or being absent—And the said magistrates in case of refusal, shall be subject to all the penalties to which any sheriff or other person required to hold an election, is liable,* and shall be entitled to the same compensation.

Repealing clause.

XII. SO much of every other act, as prescribes the time of electing representatives to serve in the congress of the United States, and regulates the arrangement of the counties of this commonwealth for the said purpose, shall be and the same is hereby repealed.

Commencing clause.

XIII. THIS act shall commence and be in force, from and after the fifth day of March, one thousand eight hundred and three.

CHAP. CCCVI.

An Act to fix the Salaries of certain Officers.

[Passed the 2d of February, 1802.]

Salaries of certain officers fixed.

I. BE *it enacted by the General Assembly*, That the officers hereafter mentioned, shall be allowed annually the following salaries: The keeper of the Penitentiary house, the sum of one thousand two hundred dollars; the turnkey to the Penitentiary house, the sum of two hundred and sixty-six dollars and sixty-six cents; the clerk of the Penitentiary house, the sum of six hundred and twenty-five dollars; the door-keeper of the capitol, and of the council, whose duty is to keep the capitol clean, and obey the orders of the Executive, the sum of three hundred dollars; and the keeper of the keys of the capitol, the sum of two hundred dollars; to each of the under clerks in the Register's office, five hundred dollars; to the keeper of the public seal, three hundred dollars; to the assistant clerk of the council, one thousand dollars, which several sums shall be paid quarterly out of the treasury, on warrants to be issued by the auditor of public accounts.

Salaries of others fixed, but not to commence till services required.

II. *AND be it further enacted*, That the following officers shall be allowed annually, the salaries herein after mentioned, to be paid quarterly, and to commence as soon as the Executive adjudge that their services are necessary—The superintendant of the manufactory of arms, the sum of two thousand dollars; the master armourer, the sum of one thousand dollars; the assistant armourer, the sum of one thousand dollars; the clerk to the manufactory of arms, the sum of five hundred dollars; and the commissary and store keeper to the manufactory of arms, the sum of five hundred dollars; which several sums last mentioned, shall be paid in the same manner, that the other salaries allowed by this act are paid; that until the last mentioned salaries commence, those who are employed in the armery by the Executive shall be paid as heretofore.

Until they commence, persons employed in armory to be paid as heretofore.

* liable to, *in the roll.*

Executive not to fix salary of any clerk.

III. THAT all acts or parts of acts which authorised the Executive to fix the salaries of any clerk, shall be and the same are hereby repealed.

Commencement and continuance of this act.

IV. THIS act shall be in force from the passing thereof, and shall continue in force until the end of the next session of the General Assembly.

CHAP. CCCVII.

An Act authorising Joseph Caldwell to re-publish the Public Acts of this Commonwealth.

[Passed the 28th of January, 1802.]

Preamble.

I. WHEREAS it hath been represented that a collection has been made by Joseph Caldwell, of such acts of the General Assembly of a public and permanent nature, as are now in force within this commonwealth; and the said Joseph Caldwell having petitioned the legislature to sanction a publication of the same in such manner as to give them legal authority:

Re-publication of public acts sanctioned.

II. *BE it enacted*, That Hugh Holmes, Charles Magill, Robert White, and Archibald Magill, gentlemen, or any three of them, be, and they are hereby authorised to examine the collection of the aforesaid acts, and all the notes and references respecting the same, made and proposed to be published by the said Joseph Caldwell; and if the said committee shall be of opinion, that the said laws have been carefully collated, that the notes are accurately made, and that an edition thereof will be of public utility, upon a certificate to that effect, signed by three at least of the aforenamed persons, published with the said laws, and also that they are truly and accurately printed, they shall be received, adjudged and considered, of equal authority with the originals from which they are taken, in all courts and other places within this commonwealth.

Commencing clause.

III. THIS act shall be in force from the passing thereof.

APPENDIX.

At a *General Assembly*, begun and held at the Public Buildings, in the City of *Richmond*, on *Monday*, the 21st day of *October*, in the Year of our Lord, 1782.

CHAP. I.

An Act for Equalizing the Land-Tax.

Preamble.

I. WHEREAS the land tax, as at present charged by the commissioners of the several counties, is found to be very unequal, and from experience of the past, it is certain that future valuations or assessments (although attended with great expense and delay) will not produce that equality so essentially necessary to the happiness of all the good citizens of this commonwealth: And whereas, by arranging the several counties whose soil and situation are nearly similar, into districts, a standard value is produced, whereby the accounts of every person within the said district may be justly regulated for all charges on land hereafter to be imposed, and a rule established whereby in future the tax upon landed property may be laid with ease and certainty, and collected with all possible equality: *Be it enacted*, that the counties within this commonwealth shall be laid off into four districts in manner following, that is to say: The counties of *Accomack, Northampton, Princess Anne, Norfolk, Nansimond, Isle of Wight, Southampton, Surry, Sussex, Prince George, Dinwiddie, Greensville, Brunswick, Chesterfield, Henrico, Charles City, James City, New-Kent, York, Warwick, King & Queen, Elizabeth City, Hanover, Gloucester, Middlesex, Essex, King William, Caroline, Spotsylvania, Lancaster, Northumberland, Richmond, Westmoreland, King George, Stafford, Prince William, Goochland, Powhatan, Cumberland, Amelia*, and *Fairfax* shall compose the first class. The counties of *Loudoun, Fauquier, Culpeper, Orange, Louisa, Fluvanna, Lunenburg, Mecklenburg, Prince Edward, Charlotte, Albemarle, Buckingham, Berkeley, Amherst, Campbell, Halifax, Bedford*, and *Frederick*, shall compose the second class. The counties of *Pittsylvania, Henry, Botetourt, Shenandoah, Rockingham, Augusta, Rockbridge*, and *Hampshire*, shall compose the third class: And the counties of *Washington, Montgomery, Greenbrier, Monongalia, Ohio, Fayette, Jefferson*, and *Lincoln*, the fourth class. And *John Pendleton*, junior, and *Samuel Jones*, gentlemen, are hereby appointed to examine the returns made of the valuations of the present year, and to ascertain the average price *per* acre of all the lands in each county, within the districts aforesaid, and (carrying all fractions of a penny to the benefit of the revenue) by comparing the same with the standard or average value of each district herein after declared, shall, and they are hereby empowered, directed, and required, by a just *per centage*, to apply the difference to the account of every individual within the district, and add to or deduct from the same accordingly. And the said examiners shall, before they proceed on the business aforesaid, take the following oath, viz. *I A. B. do solemnly swear that I will to the best of my skill and judgment, ascertain the true average price* per *acre of the lands within the several counties of this commonwealth, agreeable to the returns made, and by comparing the same to the standard by law established, will make out a just account of the land tax of every person charged in the said returns agreeable to this act, and transmit the same as by law required. So help me God.* And each of the said examiners, for their services herein, shall receive from the treasurer of this commonwealth, by warrant from the auditors (which upon receipt of the books herein after mentioned, they are and shall be empowered to grant) the sum of three hundred pounds.

Lands classed by counties.

Commissioners appointed to regulate the tax by the assessments.

Standard tax of each class.

II. *AND be it enacted*, That the average or standard of the first district is and shall be ten shillings; the average or standard of the second district is and shall be seven shillings and six pence; the average or standard of the third district five shillings and six pence; and the average or standard of the fourth district three shillings. And that the tax upon land thus equalized may be duly collected, the examiners aforesaid are hereby required to make out a book of the accounts of each county, and on or before the first day of *May* next, transmit the same to the commissioners of the tax for each county hereafter to be appointed, who shall grant receipts for the same, and the said county commissioners shall cause a copy of the said book to be delivered to the sheriff, on

Collection by their books.

or before the fifteenth day of the ſaid month, by which the ſheriff ſhall proceed to collect from every perſon named therein, the ſum charged in the ſame, and no more. And the ſaid examiners are hereby required to make up a fair and true book, or books, for each of the counties, in which each county ſhall be ſeparate and diſtinct from the reſt, and alſo the charges againſt every perſon in each county, which ſaid books ſhall be kept in the auditor's office.

Commiſſioners of the tax to be choſen for three years.

III. AND to prevent miſtakes and confuſion in conſequence of alienations of property, and alterations happening within the ſeveral counties which now are vacant, or may hereafter be taken up, or which may not have been valued by the commiſſioners of the preſent year, may be charged with a juſt and proportionable tax: Be it enacted, that the court of each county within this commonwealth, at their ſeſſions in the months of *March* or *April*, nominate and appoint two proper perſons to execute the office of commiſſioners of the tax within the ſame, who ſhall remain in office three years from the time of their appointment, which ſaid commiſſioners, before they enter upon the duties of their office, ſhall before the court of the ſaid county, take the following oath, to wit: I A. B. *do ſolemnly ſwear, (or affirm, as the caſe may be) that I will diligent enquiry make of all lands within the county, which have not heretofore been valued, and a juſt valuation thereof make, agreeable to that of other lands of equal quality and ſituation within the ſaid county; alſo of all alienations or partitions which may be made, and in all other matters and things ſo charge the duties of my office agreeable to law, with diligence and impartiality, to the beſt of my ſkill and judgment. So help me God.* And in caſe of the death, refuſal, or diſability to act, of the ſaid commiſſioners, or either of them, the county court as aforeſaid ſhall, at any time, appoint others in their place. That it ſhall be the duty of the ſaid commiſſioners, in all caſes of alienation or partition within their ſaid county, from the time of delivery to the ſheriff of the book for collection in any one year, to the ſame time in the next ſucceeding year, to go upon the land ſo alienated or divided, and valuing the ſame at a price equal to other lands in the ſaid county ſimilar in ſoil and ſituation, ſhall give a credit to the perſon diſpoſing of the ſame, and charge the purchaſer or receiver with the tax payable thereon, and in like manner in caſes where lands have not been heretofore valued, or where lands which now are vacant and may hereafter be taken up, the ſaid county commiſſioners ſhall, and they hereby are required to value the ſame, and charge the owner thereof with the tax in manner aforeſaid. And the ſaid county commiſſioners ſhall annually, within two months after delivery to the ſheriff of the book or liſt for collection, make return to the auditor's office of all alterations in the county book by addition, alienation, or partition, as aforeſaid, that correſponding entries may be made in the book for each county kept at the ſaid office, and ſhall make ſuch additions or alterations in the liſt or book by them to be delivered for the collection of the current year. The ſaid commiſſioners ſhall alſo, and they are hereby required upon application and full proof to them made, to correct all errors which may have been made by the former commiſſioners, either with reſpect to the quantity of land or to the ownerſhip thereof, and charge or give credit for the ſame; and for every entry of alteration or alienation, the ſaid commiſſioners may demand and receive the ſum of five ſhillings.

Time of ſale of alienations or partitions.

To correct former errors.

Lifts of conveyances of partitions to be ſatisfied;

IV. AND to enable the county commiſſioners to make full and juſt valuations and returns as aforeſaid, *Be it enacted*, that the clerk of the general court ſhall, on or before the firſt day of *May* in every year, tranſmit, and the clerk of the county court deliver to the ſaid commiſſioners, a liſt of all conveyances or partitions within the preceding year in the reſpective courts admitted to record, certifying the quantity and ſituation of the land ſo conveyed, and if the purchaſer or ſeller ſhall not before the ſaid firſt day of *May*, have ſatisfied the ſaid commiſſioners as to the juſt value of the land, the ſame ſhall be charged as land of the beſt quality in the ſaid county; and in caſes of land which may now be vacant, the regiſter of the land-office ſhall, and he is hereby required to tranſmit, on or before the firſt day of *April*, in the year one thouſand ſeven hundred and eighty-four, to the commiſſioners of each county, a liſt of all grants iſſued from his office, or made out for vacancies within the ſaid county, ſince the firſt day of *January* laſt, and in like manner before the firſt day of *April* in each ſucceeding year, of all grants iſſued or made out within the year preceding, to be by them valued and charged as aforeſaid, for which valuation they ſhall be paid by the public, at the rate of two ſhillings and ſixpence for every hundred acres contained in the ſaid grant; and in caſes of partition, by will

and of patents.

or inheritance, the ſame fee may be demanded from the perſon entitled to ſuch partition as where the ſame is done by conveyance.

V. AND whereas alienations or partitions may have been made ſince the valuations of the preſent year, or may be made before the firſt day of *May* next: *Be it enacted*, that the ſaid county commiſſioners ſhall, and they are hereby authoriſed and required, to value all ſuch alienations or partitions, and charge the owner with the tax ariſing from the ſame, together with the fees, in manner as heretofore is directed; and the ſaid commiſſioners ſhall be entitled to receive from the public, the ſum of twelve pounds, for copying the book or liſt annually, to be delivered to the ſheriff, and for delivering the ſame; and the ſum of eight pounds for the return to the auditor's office, of ſuch alterations or additions as may annually take place within the county; the fees chargeable to the public ſhall be paid by the treaſurer on the auditor's warrants at the time of making the annual return to the auditor's office as aforeſaid. The ſaid examiners failing to perform the ſervices by this act required, ſhall forfeit and pay the ſum of two thouſand pounds each; the regiſter of the land-office ſhall forfeit and pay, for every offence, the ſum of fifty pounds; the county commiſſioners for every offence, the ſum of two hundred pounds each; the clerk of the general court, or of the county courts, the ſum of fifty pounds each; and the juſtices of the ſeveral counties failing to make the appointments by this act required, ſhall forfeit and pay the ſum of fifty pounds each. All which forfeitures ſhall be one half to the informer, the other half to the uſe of the county where the offences ſhall be committed, to be recovered by information, in any court of record, giving ten days previous notice.

Allowance to auditors.

Penalties.

VI. *AND be it enacted*, That the valuation of lots in the cities, boroughs or towns, ſhall (except where manifeſt inequality may have taken place) ſtand and remain as they now are; and in caſes where lots may be added to any city, borough or town, or where new towns may be eſtabliſhed, or where alienations or partitions may take place, or where miſtakes may have been made in former valuations, the county commiſſioners aforeſaid ſhall be governed by the ſame rules and regulations as by this act are eſtabliſhed with regard to land in like caſes.

Rule as to lots in towns.

VII. *AND be it further enacted*, That in caſe of the death, diſability, or refuſal to act, of the examiners appointed by this act, or either of them, it ſhall be lawful for the governor, with advice of council, to fill up the vacancy occaſioned thereby.

General Aſſembly, begun and held at the Public Buildings in the City of *Richmond*, on *Monday*, the 3d Day of *May*, in the Year of our Lord, 1784.

CHAP. II.

An Act to amend the Act, "For Equalizing the Land Tax."

I. WHEREAS ſeveral County Courts within this Commonwealth have failed to appoint Commiſſioners purſuant to the act "For equalizing the land tax," by reaſon whereof the tax on lands could not be collected in the ſaid Counties;

Preamble.

II. *BE it enacted by the General Aſſembly*, That the Courts of ſuch Counties ſhall, before the firſt day of May next, nominate and appoint two fit perſons to execute the office of Commiſſioners within their reſpective Counties, purſuant to the directions of the ſaid act. On failure in any Counties to make ſuch appointment, the Governor, with the advice of the Council (being notified of ſuch failure by the Clerk of ſuch Court, which he is hereby required to do under the penalty of five hundred pounds, recoverable by bill, plaint, or information, in any Court of Record within this Commonwealth) ſhall, and he is hereby authoriſed and required to appoint Commiſſioners in ſuch Counties to carry into execution the above recited act.

Commiſſioners how to be choſen.

III. *AND be it further enacted*, That the Sheriffs of the ſaid Counties ſhall, and they are hereby required, to collect the ſaid taxes in like manner as the former Sheriffs might have done if the requiſitions of the ſaid act had been

Tax, how to be collected.

complied with, and to account for and pay the ſame into the Treaſury, on or before the firſt day of May, in the year one thouſand ſeven hundred and eighty-ſix.

CHAP. III.

An Act for clearing and improving the navigation of James River.

Preamble.

I. WHEREAS the clearing and extending the navigation of James river from tide water upwards to the higheſt parts practicable on the main branch thereof, will be of great public utility, and many perſons are willing to ſubſcribe large ſums of money to effect ſo laudable and beneficial a work; and it is juſt and proper that they, their heirs, and aſſigns, ſhould be empowered to receive reaſonable tolls in ſatisfaction for the money advanced by them in carrying the work into execution, and for the riſk they run: AND WHEREAS it may be neceſſary to cut canals and erect locks, or other works on the ſides of the ſaid river;

Books to be opened for ſubſcription.

II. *BE it enacted by the General Aſſembly*, That it ſhall and may be lawful to open books in the City of Richmond, the Borough of Norfolk, at Botetourt Courthouſe, at the Town of Lewiſburg, in Greenbrier county, and at Charles Irving's ſtore, in Albemarle, for receiving and entering ſubſcriptions to the amount of one hundred thouſand dollars, for the ſaid undertaking, under the management of Turner Southall and James Buchanan, in the City of Richmond; of Robert Taylor, John Kearnes, and Thomas Newton, jun. in the Borough of Norfolk; of William Cabell and Charles Irving, at Irving's ſtore; Patrick Lockhart and George Skellern, at Botetourt Courthouſe; George Clendinen and Andrew Donnolly, at Lewiſburg; which ſubſcriptions ſhall be made perſonally, or by power of attorney, and ſhall be in Spaniſh milled dollars, but may be paid in other ſilver, or in gold coin of the ſame value. That the ſaid books ſhall be opened for receiving ſubſcriptions, on the firſt day of February next, and continue open until the tenth day of Auguſt next incluſive; and on the twentieth day of the ſaid month of Auguſt, there ſhall be a general meeting of the ſubſcribers, at the City of Richmond, of which meeting notice ſhall be given by the ſaid Managers, or any three of them, in the Virginia Gazette, at leaſt one month next before the ſaid meeting. And ſuch meeting ſhall and may be continued from day to day, until the buſineſs is finiſhed. And the acting Managers at the time and place aforeſaid, ſhall lay before ſuch of the ſubſcribers as ſhall meet according to the ſaid notice, the books by them reſpectively kept, containing the ſtate of the ſaid ſubſcriptions, and if one half of the capital ſum aforeſaid, ſhould, upon examination, appear not to have been ſubſcribed, then the ſaid Managers, at the ſaid meeting, are empowered to take and receive ſubſcriptions to make up the deficiency; and a juſt and true liſt of all the ſubſcribers, with the ſums ſubſcribed by each, ſhall be made out and returned by the ſaid Managers, or any four or more of them, under their hands, into the General Court, to be there recorded. And in caſe more than one hundred thouſand dollars ſhall be ſubſcribed, then the ſame ſhall be reduced to that ſum by the ſaid Manangers, or a majority of them, by beginning at and ſtriking off from the largeſt ſubſcription or ſubſcriptions, and continuing to ſtrike off a ſhare from all ſubſcriptions under the largeſt, and above one ſhare, until the ſum is reduced to the capital aforeſaid, of one hundred thouſand dollars, or until a ſhare is taken from all ſubſcriptions above one ſhare, and lots ſhall be drawn between ſubſcribers of equal ſums, to determine the number in which ſuch ſubſcribers ſhall ſtand on a liſt to be made for ſtriking off as aforeſaid; and if the ſum ſubſcribed ſtill excceds the capital aforeſaid, then to ſtrike off by the ſame rule, until the ſum ſubſcribed is reduced to the capital aforeſaid, or all the ſubſcriptions are reduced to one ſhare; and if there ſtill be an exceſs, then lots to be drawn to determine the ſubſcribers who are to be excluded, to reduce the ſubſcriptions to the capital aforeſaid, which ſtriking off ſhall be certified in the liſt aforeſaid; and the ſaid capital ſum ſhall be reckoned and divided into five hundred ſhares of two hundred dollars each, of which every perſon ſubſcribing may take and ſubſcribe for one or more whole ſhares, and not otherwiſe. *Provided*, That unleſs one half of the ſaid capital ſhall be ſubſcribed, all ſubſcriptions made in conſequence of this act ſhall be void; and in caſe one half, and leſs than the whole of the ſaid capital ſhall be ſubſcribed as aforeſaid, then the Preſident and Directors are hereby empowered and directed to take and receive the ſubſcriptions which ſhall be firſt offered, in whole ſhares as aforeſaid, until the def-

Meeting of the ſubſcribers.

In caſe of an overplus ſubſcription, method of reducing it.

Capital to be divided into 500 ſhares.

Unleſs one half of capital ſubſcribed, the whole to be void.

ciency shall be made up, a certificate of which additional subscriptions shall be made, under the hands of the President and Directors, or a majority of them for the time being, and returned to and recorded in the General Court as aforesaid.

To be incorporated as a company.

III. *AND be it enacted*, That in case one half of the said capital, or a greater sum, shall be subscribed as aforesaid, the said subscribers, and their heirs and assigns, from the time of the said first meeting, shall be, and are hereby declared to be incorporated into a Company, by the name of the "James River Company," and may sue, and be sued as such; and such of the said subscribers as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect a President and four Directors, for conducting the said undertaking, and managing all the said Company's business and concerns, for and during such time, not exceeding three years, as the said subscribers, or a majority of them, shall think fit. And in counting the votes of all general meetings of the said Company, each member shall be allowed one vote for every share, as far as ten shares, and one vote for every five shares above ten, by him or her held at the time in the said Company; and any proprietor, by writing under his or her hand, executed before two witnesses, may depute any other member or proprietor to vote and act as proxy for him or her, at any general meeting.

Rules for electing officers.

Authority of President and Directors.

IV. *AND be it enacted*, That the said President and Directors so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said Company, to cut such canals, and erect such locks, and perform such other works as they shall judge necessary for opening, improving and extending the navigation of the said river above tide water, to the highest part thereof, to which navigation can be extended, and carrying on the same from place to place, and from time to time, and upon such terms, and in such manner, as they shall think fit; and out of the money arising from the subscriptions and the tolls, and other aids herein after given, to pay for the same, and to repair and keep in order the said canals, locks, and other works necessary thereto, and to defray all incidental charges; and also to appoint a Treasurer, Clerk, and such other Officers, Toll Gatherers, Managers, and servants, as they shall judge requisite, and to agree for and settle their respective wages or allowances, and to settle and sign their accounts; and also to make and establish rules of proceeding, and to transact all the other business and concerns of the said Company, in and during the intervals between the general meetings of the same; and they shall be allowed as a satisfaction for their trouble therein, such sum of money as shall, by a general meeting of the subscribers, be determined. *Provided always*, That the Treasurer shall give bond, in such penalty, and with such security, as the said President and Directors, or a majority of them, shall direct, for the true and faithful discharge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed three pounds in the hundred, for the disbursements by him made; and that no Officer in the said Company shall have any vote in the passing or settlement of his own account.

Mode of collecting amount of shares.

V. *AND be it enacted*, That the said President and Directors, and their successors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, and in what proportion the proprietors shall advance and pay off the sums subscribed, which orders shall be advertised at least one month in the Virginia Gazettes; and they are hereby authorised and empowered to demand and receive of the several proprietors, from time to time, the sums of money so ordered to be advanced for carrying on and executing, or repairing and keeping in order the said works, until the sums subscribed shall be fully paid and to order the said sums to be deposited into the hands of the Treasurer, to be by him disbursed and paid out as the said President and Directors, or a majority of them, shall order and direct. And if any of the said proprietors shall refuse or neglect to pay their said proportions, within one month after the same shall be so ordered and advertised, as aforesaid, the said President and Directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia Gazette; and after retaining the sum due, and charges of sale out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner,

Shares may be sold in case of failure in payment

and if ſuch ſale ſhall not produce the full ſum ordered and directed to be advanced, as aforeſaid, with the incidental charges, the ſaid Preſident and Directors, or a majority of them, may, in the name of the Company, ſue for and recover the balance by action of debt, or on the caſe; and the ſaid purchaſer or purchaſers, ſhall be ſubject to the ſame rules and regulations, as if the ſaid ſale and conveyance had been made by the original proprietor. And to continue the ſucceſſion of the ſaid Preſident and Directors, and to keep up the ſame number;

Owners may be ſued.

New officers to be choſen.

VI. *BE it enacted*, That from time to time, upon the expiration of the ſaid term, for which the ſaid Preſident and Directors were appointed, the proprietors of the ſaid Company, at the next general meeting, ſhall either continue the ſaid Preſident and Directors, or any of them, or chooſe others in their ſtead; and in caſe of the death, removal, reſignation, or incapacity of the Preſident, or any of the ſaid Directors, may and ſhall, in the manner aforeſaid, elect any other perſon or perſons, to be Preſident and Directors, in the room of him or them ſo dying, removing, or reſigning; and may at any of their general meetings, remove the Preſident or any of the Directors, and appoint others for and during the remainder of the term, for which ſuch perſon or perſons were at firſt to have acted.

Oath of office.

VII. *AND be it enacted*, That every Preſident and Director, before he acts as ſuch, ſhall take an oath or affirmation, for the due execution of his office.

Meetings of the company.

VIII. *AND be it enacted*, That the preſence of proprietors, having one hundred ſhares at the leaſt, ſhall be neceſſary to conſtitute a general meeting; and that there be a general meeting of proprietors on the firſt Monday of October, in every year, at ſuch convenient town as ſhall be, from time to time, appointed by the ſaid general meeting; but if a ſufficient number ſhould not attend on that day, the proprietors who do attend may adjourn ſuch meeting from day to day, till a general meeting of proprietors ſhall be had, which may be continued from day to day, until the buſineſs of the Company is finiſhed, to which meeting, the Preſident and Directors ſhall make report, and render diſtinct and juſt accounts of all their proceedings; and on finding them fairly and juſtly ſtated, the proprietors then preſent, or a majority of them, ſhall give a certificate thereof, a duplicate of which ſhall be entered on the ſaid Company's books; and at ſuch yearly general meetings, after leaving in the hands of the Treaſurer ſuch ſum, as the proprietors, or a majority of them, ſhall judge neceſſary for repairs and contingent charges, an equal dividend of all the neat profits ariſing from the tolls hereby granted, ſhall be ordered and made, to and among all the proprietors of the ſaid Company, in proportion to their ſeveral ſhares; and upon any emergency in the interval between the ſaid yearly meetings, the ſaid Preſident, or a majority of the ſaid Directors, may appoint a general meeting of the proprietors of the ſaid Company, at any convenient town, giving at leaſt one month's previous notice in the Virginia Gazettes, which meeting may be adjourned and continued, as aforeſaid.

Property to be veſted in the holders of ſhares.

IX. *AND be it enacted*, That for and in conſideration of the expenſes the ſaid proprietors will be at, not only in the cutting the ſaid canals, erecting locks, and other works for opening the different falls of the ſaid river, and in improving and extending the navigation thereof, but in maintaining and keeping the ſame in repair, the ſaid canals and works, with all their profits, ſhall be, and the ſame are hereby veſted in the ſaid proprietors, their heirs, and aſſigns, for ever, as tenants in common, in proportion to their reſpective ſhares, and the ſame ſhall be deemed real eſtate, and be for ever exempt from payment of any tax, impoſition, or aſſeſſment whatever; and that it ſhall and may be lawful for the ſaid Preſident and Directors, at all times forever hereafter, to demand and receive, at the moſt convenient place, at or near the falls between Weſtham and tide water, tolls according to the following Table of rates, to wit:

Table of rates.

In Dollars, and Parts of a Dollar.

	Parts of a Dollar.
Every pipe or hogſhead of wine, containing more than 65 gallons,	45-72nds.
Every hogſhead of rum or other ſpirits,	36-72nds.
Every hogſhead of tobacco,	30-72nds.
Every caſk between 65 and 35 gallons, half of a pipe or hogſhead, barrels one-fourth part, and ſmaller caſks or kegs, in proportion, according to the quality and quantity of their contents of wine or ſpirits.	

For casks of linseed oil, the same as spirits.	
Every bushel of wheat, peas, beans, or flax-seed,	5-288ths.
Every bushel of Indian corn, or other grain, or salt,	2 1-2-288ths.
Every barrel of pork,	15-72nds.
Every barrel of beef,	10-72nds.
Every barrel of flour,	30-288ths.
Every ton of hemp, flax, pot-ash, bar or manufactured iron,	1 3-72nds.
Every ton of pig-iron, or castings,	25-72nds.
Every ton of copper, lead, or other ore, other than iron ore,	60-72nds.
Every ton of stone, or iron ore	12-72nds.
Every hundred bushels of lime,	38-72nds.
Every chaldron of coals,	12-72nds.
Every hundred pipe staves,	6-72nds.
Every hundred hogshead staves, or pipe or hogshead heading,	15-288ths.
Every hundred barrel staves, or barrel heading,	10-288ths.
Every hundred cubic feet of plank, or scantling,	25-72nds.
Every hundred cubic feet of other timber,	55-288ths.
Every gross hundred weight of all other commodities or packages,	15-288ths.
Every boat or vessel, which has not commodities on board, to yield so much; provided that an empty boat or vessel returning, whose load has already paid at the respective places, the sums fixed at each, shall repass toll free,	1 3-72nds.

Which tolls may be discharged in foreign gold or silver coin of the present fineness, at the present rates: But if any of the coin aforesaid, should hereafter be rendered less valuable than they are at present, either by lessening their weight, or therewith adding a greater quantity of alloy than is in them respectively at present, then so much of any of the said coins, the value of which is so reduced, to be received for the tolls aforesaid, as is equal in value to the said coins in their present state of fineness and weight, shall be payable for the said tolls, at their reduced value only. And in case of refusal or neglect to pay the toll at the time of offering to pass through any of the said places, and previous to the vessel's passing through the same, the Collectors of the said tolls may lawfully refuse passage to such vessel; and if any vessel shall pass through without paying the said toll, then the said Collectors may seize such vessel, wherever found, and sell the same at auction, for ready money, which, so far as is necessary, shall be applied towards paying the said toll, and all expenses of seizure, and the balance (if any) shall be paid to the owner; and the person having the direction of such vessel, shall be liable for the toll, if the same is not paid by the sale of such vessel, as aforesaid. *Provided*, That the said proprietors, or a majority of them, holding at least three hundred shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them, or to determine that any article may pass free of toll.

In case of refusal to pay toll, passage to vessels may be refused.

X. *AND be it enacted*, That the said river, and the works to be erected thereon in virtue of this act, when completed, shall forever thereafter, be esteemed and taken to be navigable as a public highway, free for the transportation of all goods, commodities, or produce whatsoever, on payment of the tolls imposed by this Act: and no other toll or tax whatever, for the use of the water of the said river, and the works thereon erected, shall, at any time hereafter, be imposed: AND WHEREAS, it is necessary for the making the said canal, locks, and other works, that a provision should be made for condemning a quantity of land for the purpose:

River and works to be a public highway.

XI. *BE it enacted*, That it shall and may be lawful, for the said President and Directors, or a majority of them, to agree with the owners of any land, through which the said canal is intended to pass, for the purchase thereof; and in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos, or out of the State, on application to any two Justices of the County in which such land shall lie, the said Justices shall issue their warrant under their hands, to the Sheriff of their County, to summon a Jury of twenty-four inhabitants of his County, of property and reputation, not related to the parties, nor in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter; and the Sheriff upon receiving the said warrant, shall forthwith summon the said Jury, and when met, provided there be not less than twelve, shall administer an oath or affirmation to every juryman that shall appear; "That "he will faithfully, justly, and impartially, value the land, (not exceeding in

Company may purchase lands.

"any caſe the width of one hundred and fifty feet) and all damages the owner "thereof ſhall ſuſtain by the cutting the canal through ſuch land, according to "the beſt of his ſkill and judgment; and that in ſuch valuation, he will not "ſpare any perſon for favor or affection, nor any perſon grieve for hatred, ma-"lice, or ill will." And the inquiſition thereupon taken, ſhall be ſigned by the Sheriff, and ſome twelve or more of the Jury, and returned by the Sheriff to the Clerk of his County, to be by him recorded. And upon every ſuch valuation, the Jury is hereby directed, to deſcribe and aſcertain the bounds of the land by them valued, and their valuation ſhall be concluſive on all perſons, and ſhall be paid by the ſaid Preſident and Directors, to the owner of the land, or his legal repreſentative; and on payment thereof, the ſaid Company ſhall be ſeized in fee of ſuch land, as if conveyed by the owner thereof to them, and their ſucceſſors, by legal conveyance. *Provided nevertheleſs*, That if any farther damage ſhall ariſe to any proprietor of land, in conſequence of opening ſuch canal, or in erecting ſuch works, than had been before conſidered and valued, it ſhall and may be lawful for ſuch proprietor, as often as any ſuch new damage ſhall happen, by application to, and a warrant from, any two Juſtices of the County where the lands lie, to have ſuch farther damage valued in like manner, and to receive and recover the ſame of the ſaid Preſident and Directors. But nothing herein ſhall be taken or conſtrued to entitle the proprietor of any ſuch land, to recover compenſation for any damages which may happen to mills, forges, or other works or improvements which ſhall be begun or erected by ſuch proprietor, after ſuch firſt valuation, unleſs the ſame damage is wilfully or maliciouſly done by the ſaid Preſident and Directors, or ſome perſon by their authority.

Methods of purchaſe.

XII. *AND be it enacted*, That the ſaid Preſident and Directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchaſe of a quantity of land, not exceeding one acre, at or near the places of receipt of tolls aforeſaid, for the purpoſe of erecting neceſſary buildings; and in caſe of diſagreement, or any of the diſabilities aforeſaid, or the Proprietor being out of the State, then ſuch land may be valued, condemned, and paid for as aforeſaid, for the purpoſe aforeſaid; and the ſaid Company ſhall, upon payment of the valuation of the ſaid land, be ſeized thereof in fee ſimple as aforeſaid. AND WHEREAS, ſome of the places through which it may be neceſſary to conduct the ſaid canals, may be convenient for erecting mills, forges, or other water works, and the perſons, poſſeſſors of ſuch ſituation, may deſign to improve the ſame, and it is the intention of this Act, not to interfere with private property, but for the purpoſe of improving and perfecting the ſaid navigation;

No water to be uſed by the company for any purpoſe but that of a canal, but under reſtrictions.

XIII. *BE it enacted*, That the water or any part thereof, conveyed through any canal or cut made by the ſaid Company, ſhall not be uſed for any purpoſe but navigation, unleſs the conſent of the proprietors of the land through which the ſame ſhall be led, be firſt had; and the ſaid Preſident and Directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to anſwer both the purpoſes of navigation and water-works aforeſaid, to enter into reaſonable agreements with the proprietors of ſuch ſituation, concerning the juſt proportion of the expenſes of making large canals or cuts capable of carrying ſuch quantities of water as may be ſufficient for the purpoſes of navigation, and alſo for any ſuch water works as aforeſaid.

Shares transferable.

XIV. *AND be it enacted*, That it ſhall and may be lawful for every of the ſaid proprietors to transfer his ſhare or ſhares, by deed executed before two witneſſes, and regiſtered after proof of the execution thereof, in the ſaid Company's books, and not otherwiſe, except by deviſe, which deviſe ſhall alſo be exhibited to the Preſident and Directors, and regiſtered in the Company's books, before the deviſee or deviſees ſhall be entitled to draw any part of the profits from the ſaid tolls: *Provided*, That no transfer whatſoever ſhall be made, except for one or more whole ſhare or ſhares, and not for part of ſuch ſhares; and that no ſhare ſhall at any time be ſold, conveyed, transferred, or held in truſt, for the uſe and benefit, or in the name of another, whereby the ſaid Preſident and Directors, or proprietors of the ſaid Company, or any of them, ſhall or may be challenged, or made to anſwer concerning any ſuch truſt, but that every perſon appearing as aforeſaid to be a proprietor, ſhall, as to the others of the ſaid Company, be to every intent, taken abſolutely as ſuch, but as between any Truſtee and the perſon for whoſe benefit any truſt ſhall be created, the common remedy may be purſued.

To be firſt offered for ſale to the Aſſembly.

XV. *AND it is hereby further provided*, That each proprietor who ſhall be deſirous of ſelling his ſhare or ſhares, ſhall firſt offer the ſame to ſuch perſon as ſhall be hereafter empowered by the General Aſſembly to purchaſe ſhares on

public account; and it is hereby declared, that such person acting for the Commonwealth, shall have the preference in all such sales, if he will give the same consideration for which the proprietor shall really and *bona fide* sell. AND WHEREAS, it hath been represented to this General Assembly, that sundry persons are willing and desirous on account of the great public advantages and improvement their estates may receive thereby, to promote and contribute towards so useful an undertaking, and to subscribe sums of money to be paid, on condition the said works are really completed and carried into execution, but do not care to run any risk, or desire to have any property therein:

Officers empowered to take in subscriptions.

XVI. *BE it therefore enacted*, That the said President and Directors shall be, and are hereby empowered to receive and take in subscriptions upon the said condition, and upon the said works being completed and carried into execution according to the true intent and meaning of this Act, that it shall and may be lawful for the said President and Directors, or a majority of them, in case of refusal or neglect of payment, in the name of the Company as aforesaid, to sue for, and recover of the said subscribers, their heirs, executors, or administrators, the sums by them respectively subscribed, by action of debt, or upon the case, in any Court of Record within this State.

Capital of company may be augmented.

XVII. *AND be it enacted*, That if the said capital, and the other aids already granted by this Act, shall prove insufficient, it shall and may be lawful for the said Company, from time to time, to increase the said capital, by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them holding at least three hundred shares, present at any general meeting of the said Company; and the said President and Directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof in the Virginia Gazettes, to open books in the before mentioned places for receiving and entering such additional subscriptions, in which the proprietors of the said Company for the time being, shall, and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares, as any of them shall choose. And the said President and Directors, are hereby required to observe, in all other respects, the same rules therein as are by this act prescribed for receiving and adjusting the first subscriptions, and in like manner to return under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the General Court, as aforesaid, to be there recorded; and all proprietors of such additional shares shall, and they are hereby declared to be, from thenceforward incorporated into the said Company.

Conditions of power to uplift tolls.

XVIII. *AND it is hereby enacted and declared*, That the tolls herein before allowed to be demanded and received at the place above-mentioned, are granted, and shall be paid on condition only, that the said "James River Company" shall make the river well capable of being navigated in dry seasons by vessels drawing one foot water at least, from the highest place practicable to the Great Falls, beginning at Westham, and shall at or near the said Falls, make such cut or cuts, canal or canals, with sufficient locks, if necessary, each of eighty feet in length, and fifteen feet in breadth, as will open a navigation to tide water, in all places at least twenty-five feet wide, except at such locks, and capable of conveying vessels or rafts drawing four feet water at the least, into tide water, or shall render such part of the river navigable in the natural course.

On failure, charter to be forfeited.

XIX. *AND it is hereby provided and enacted*, That in case the said Company shall not begin the said work within one year after the said Company shall be formed, or shall not complete the same within ten years thereafter, then shall all the interest of the said Company, and all preference in their favor as to the navigation and tolls aforesaid, be forfeited, and cease. *Provided*, That in case the navigation shall be opened from Westham to tide water, before the opening of the river above Lynch's ferry, the tolls above-mentioned may be collected until the expiration of ten years, from the time at which the Company shall have been formed.

Treasurer of the commonwealth to subscribe for an hundred shares.

XX. *AND be it farther enacted*, That the Treasurer of this Commonwealth shall be authorized and directed to subscribe to the amount of one hundred shares in behalf of the same, and the money necessary in consequence of such subscription, shall be paid as the same shall be required. And the Treasurer for the time being, shall have a right to vote according to such shares, in person or by proxy, appointed by him, and shall receive the proportion of the tolls aforesaid, which shall from time to time become due to this State, for the shares aforesaid.

Acts within the purview of this, hereby repealed.

XXI. *AND be it further enacted*, That ſo much of every Act and Acts within the purview of this Act, ſhall be, and the ſame is hereby repealed. *Provided nevertheleſs*, That nothing in this Act ſhall be conſtrued ſo as to take away the right which the repreſentatives of John Ballendine have to that part of the canal which is already begun, and to all the advantages reſulting from the ſame; but the ſame ſhall be valued by a Jury, in manner and form as is before directed, and the ſaid repreſentatives ſhall be entitled to ſo many ſhares in the ſaid Company, and to ſo much of the ſurplus water, as the ſaid Jury ſhall determine; or they ſhall receive, at their option, the value thereof in money, to be eſtimated by the ſaid Jury.

CHAP. IV.

An Act for opening and extending the Navigation of Potowmack River.

Preamble.

I. WHEREAS the extenſion of the navigation of Potowmack River, from tide water to the higheſt place practicable on the North Branch, will be of great public utility, and many perſons are willing to ſubſcribe large ſums of money to effect ſo laudable and beneficial a work; and it is juſt and proper that they, their heirs, and aſſigns, ſhould be empowered to receive reaſonable tolls forever, in ſatisfaction for the money advanced by them in carrying the work into execution, and the riſk they run: AND WHEREAS it may be neceſſary to cut canals and erect locks and other works on both ſides of the River, and the Legiſlatures of Maryland and Virginia, impreſſed with the importance of the object, are deſirous of encouraging ſo uſeful an undertaking: Therefore,

Mode of ſubſcribing for ſhares.

II. *BE it enacted by the General Aſſembly of Virginia*, That it ſhall and may be lawful to open books in the City of Richmond, Towns of Alexandria and Wincheſter, in this State, for receiving and entering ſubſcriptions for the ſaid undertaking, under the management of Jacquelin Ambler and John Beckley at the City of Richmond, of John Fitzgerald and William Hartſhorne at the Town of Alexandria, and of Joſeph Holmes and Edward Smith at the Town of Wincheſter, and under the management of ſuch perſons and at ſuch places in Maryland as have been appointed by the State of Maryland, which ſubſcriptions ſhall be made perſonally or by power of attorney, and ſhall be made in Spaniſh milled dollars, but may be paid in foreign ſilver or gold coin of the value; that the ſaid books ſhall be opened for receiving ſubſcriptions on the eighth day of February next, and continue open for this purpoſe until the tenth day of May next, incluſive; and on the ſeventeenth day of the ſaid month of May, there ſhall be a general meeting of the ſubſcribers at the Town of Alexandria, of which meeting notice ſhall be given by the ſaid Managers, or any four of them, in the Virginia and Maryland Gazettes, at leaſt one month next before the ſaid meeting; and ſuch meeting ſhall and may be continued from day to day until the buſineſs is finiſhed; and the acting Managers at the time and place herein after mentioned, ſhall lay before ſuch of the ſubſcribers as ſhall meet according to the ſaid notice, the books by them reſpectively kept, containing the ſtate of the ſaid ſubſcriptions; and if one half the capital ſum herein after mentioned, ſhould, upon examination, appear not to have been ſubſcribed, then the ſaid Managers at the ſaid meeting, are empowered to take and receive ſubſcriptions to make up the deficiency; and a juſt and true liſt of all the ſubſcribers, with the ſums ſubſcribed by each, ſhall be made out and returned by the ſaid Managers, or any four or more of them, under their hands, into the General Court of each State, to be there recorded; and in caſe more than two

Amount of capital.

hundred and twenty-two thouſand two hundred and twenty-two dollars and two-ninths of a dollar, ſhall be ſubſcribed, then the ſame ſhall be reduced to that ſum by the ſaid Managers, or a majority of them, by beginning at and ſtriking off a ſhare from the largeſt ſubſcription or ſubſcriptions, and continuing to ſtrike off a ſhare from all ſubſcriptions under the largeſt, and above one ſhare, until the ſum is reduced to the capital of two hundred and twenty-two thouſand two hundred and twenty-two dollars and two-ninths of a dollar, or until a ſhare is taken from all ſubſcriptions above one ſhare, and lots ſhall be drawn between the ſubſcribers of equal ſums, to determine the numbers in which ſuch ſubſcribers ſhall ſtand, on a liſt to be made for ſtriking off as aforeſaid; and if the ſum ſubſcribed ſtill exceeds the capital aforeſaid, then to ſtrike off by the ſame rule until the ſum ſubſcribed is reduced to the capital aforeſaid, or all the ſubſcriptions are reduced to one ſhare; and if there ſtill be an exceſs, then lots to

be drawn to determine the ſubſcribers who are to be excluded, to reduce the ſubſcriptions to the capital aforeſaid, which ſtriking off ſhall be certified in the liſt aforeſaid, and the ſaid capital ſum ſhall be reckoned and divided into five hundred ſhares, of four hundred and forty-four dollars and four-ninths of a dollar each, of which every perſon ſubſcribing may take and ſubſcribe for one or more whole ſhares, and not otherwiſe. *Provided*, That unleſs one half of the ſaid capital ſhall be ſubſcribed as aforeſaid, all ſubſcriptions made in conſequence of this Act, ſhall be void; and in caſe one half and leſs than the whole of the ſaid capital ſhall be ſubſcribed as aforeſaid, then the Preſident and Directors are hereby empowered and directed to take and receive the ſubſcriptions which ſhall firſt be offered in whole ſhares as aforeſaid, until the deficiency ſhall be made up, a certificate of which additional ſubſcriptions ſhall be made under the hands of the Preſident and Directors, or a majority of them for the time being, and returned to and recorded in the General Courts, aforeſaid.

Conditions that may void this act.

III. *AND be it enacted*, That in caſe one half of the ſaid capital, or a greater ſum, ſhall be ſubſcribed as aforeſaid, the ſaid ſubſcribers and their heirs and aſſigns, from the time of the ſaid firſt meeting, ſhall be, and are hereby declared to be incorporated into a Company, by the name of the "Potowmack Company," and may ſue and be ſued, as ſuch: and ſuch of the ſaid ſubſcribers as ſhall be preſent at the ſaid meeting, or a majority of them, are hereby empowered and required to elect a Preſident and four Directors, for conducting the ſaid undertaking, and managing all the ſaid Company's buſineſs and concerns, for and during ſuch time, not exceeding three years, as the ſaid ſubſcribers, or a majority of them, ſhall think fit; and in counting the votes of all general meetings of the ſaid Company, each member ſhall be allowed one vote for every ſhare, as far as ten ſhares, and one vote for every five ſhares above ten, by him or her held at the time in the ſaid Company, and any proprietor by writing, under his or her hand, executed before two witneſſes, may depute any other member or proprietor to vote and act as proxy for him or her, at any general meeting.

Title of the Company.

Authoriſed to elect officers.

Mode of election.

IV. *AND be it enacted*, That the ſaid Preſident and Directors ſo elected, and their ſucceſſors, or a majority of them aſſembled, ſhall have full power and authority to agree with any perſon or perſons on behalf of the ſaid Company, to cut ſuch canals and erect ſuch locks, and perform ſuch other works as they ſhall judge neceſſary for opening, improving, and extending the navigation of the ſaid River, above tide water to the higheſt part of the North Branch to which navigation can be extended, and carrying on the ſame from place to place, and from time to time, and upon ſuch terms and in ſuch manner as they ſhall think fit, and out of the money ariſing from the ſubſcriptions and the tolls, and other aids herein after given, to pay for the ſame, and to repair and keep in order the ſaid canals, locks, and other works neceſſary thereto, and to defray all incidental charges; and alſo to appoint a Treaſurer, Clerk, and ſuch other Officers, Toll-gatherers, Managers, and ſervants, as they ſhall judge requiſite, and to agree for and ſettle their reſpective wages or allowances, and ſettle, paſs and ſign their accounts; and alſo to make and eſtabliſh rules of proceeding, and to tranſact all the other buſineſs and concerns of the ſaid Company, in and during the intervals between the general meetings of the ſame, and they ſhall be allowed as a ſatisfaction for their trouble therein, ſuch ſum of money as ſhall, by a general meeting of the ſubſcribers, be determined. *Provided always*, That the Treaſurer ſhall give bond, in ſuch penalty and with ſuch ſecurity, as the ſaid Preſident and Directors, or a majority of them, ſhall direct, for the true and faithful diſcharge of the truſt repoſed in him, and that the allowance to be made to him for his ſervices, ſhall not exceed three pounds in the hundred for the diſburſements by him made; and that no Officer in the ſaid Company ſhall have any vote in the ſettlement or paſſing of his own account.

Powers of the officers.

V. *AND be it enacted*, That the ſaid Preſident and Directors, and their ſucceſſors, or a majority of them, ſhall have full power and authority, from time to time, as money ſhall be wanting, to make and ſign orders for that purpoſe, and direct at what time, and in what proportion the proprietors ſhall advance and pay off the ſums ſubſcribed, which orders ſhall be adverti ſed at leaſt one month in the Virginia and Maryland Gazettes; and they are hereby authoriſed and empowered to demand and receive of the ſeveral proprietors, from time to time, the ſums of money ſo ordered to be advanced for carrying on and executing, or repairing and keeping in order the ſaid works, until the ſums ſubſcribed ſhall be fully paid, and to order the ſaid ſums to be depoſited into the hands of the Treaſurer, to be by him diſburſed and paid out as the ſaid

Mode of collecting amount of ſhares ſubſcribed for.

May sell shares of delinquent subscribers.

President and Directors, or a majority of them, shall order and direct; and if any of the said proprietors shall refuse or neglect to pay their said proportions within one month after the same so ordered and advertised as aforesaid, the said President and Directors, or a majority of them, may sell at auction, and convey to the purchaser, the share or shares of such proprietor so refusing or neglecting payment, giving at least one month's notice of the sale in the Virginia and Maryland Gazettes, and after retaining the sum due and charges of sale, out of the money produced thereby, they shall refund and pay the overplus, if any, to the former owner; and if such sale shall not produce the full sum ordered and directed to be advanced as aforesaid, with the incidental charges, the said President and Directors, or a majority of them, may, in the name of the Company, sue for and recover the balance by action of debt, or on the case; and the said purchaser or purchasers shall be subject to the same rules and regulations as if the said sale and conveyance had been made by the original proprietor. AND to continue the succession of the said President and Directors, and to keep up the same number,

May sue for deficiencies arising on sales.

Election of new officers.

VI. *BE it enacted*, That from time to time, upon the expiration of the said term for which the said President and Directors were appointed, the proprietors of the said Company at the next general meeting, shall either continue the said President and Directors, or any of them, or shall choose others in their stead; and in case of the death, removal, resignation or incapacity of the President, or any of the said Directors, may and shall, in manner aforesaid, elect any other person or persons to be President and Directors in the room of him or them, so dying, removing, or resigning, and may, at any of their general meetings remove the President, or any of the Directors, and appoint others, for and during the remainder of the term for which such person or persons were at first to have acted.

Oath of office.

VII. *AND be it enacted*, That every President and Director, before he acts as such, shall take an oath or affirmation for the due execution of his office.

Meetings of the Company.

VIII. *AND be it enacted*, That the presence of proprietors having one hundred shares at the least, shall be necessary to constitute a general meeting, and that there be a general meeting of proprietors on the first Monday of August in every year, at such convenient town as shall from time to time be appointed by the said general meeting; but if a sufficient number should not attend on that day, the proprietors who do attend, may adjourn such meeting from day to day, till a general meeting of proprietors shall be had, which may be continued from day to day, until the business of the Company is finished, to which meeting the President and Directors shall make report, and render distinct and just accounts of all their proceedings, and, on finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said Company's books; and at such yearly general meetings, after leaving in the hands of the Treasurer, such sum as the proprietors or a majority of them shall judge necessary for repairs and contingent charges, an equal dividend of all the neat profits, arising from the tolls hereby granted, shall be ordered and made to and among all the proprietors of the said Company, in proportion to their several shares; and upon any emergency in the interval between the said yearly meetings, the said President, or a majority of the said Directors, may appoint a general meeting of the proprietors of the said Company, at any convenient town, giving at least one month's previous notice in the Maryland and Virginia Gazettes, which meeting may be adjourned and continued as aforesaid.

Property vested in holders of shares.

IX. *AND be it further enacted*, That for and in consideration of the expenses the said proprietors will be at, not only in cutting the said canals, erecting locks, and other works for opening the different falls of the said River, and in improving and extending the navigation thereof, but in maintaining and keeping the same in repair, the said canals and works, with all their profits, shall be, and the same are hereby vested in the said proprietors, their heirs, and assigns forever, as tenants in common, in proportion to their respective shares, and the same shall be deemed real estate, and be forever exempt from payment of any tax, imposition or assessment whatsoever; and it shall and may be lawful for the said President and Directors, at all times forever hereafter, to demand and receive at the nearest convenient place below the mouth of the South Branch, and at or near Payne's Falls, and at or above the Great Falls of the River Potowmack, and every of these places separately, for all commodities transported through either of them respectively, tolls according to the following table and rates, to wit:

Table of rates.

	At the mouth of the South Branch.			At Payne's Falls.			At the Great Falls.		
	Sterling.								
Every pipe or hogſhead of wine, containing more than ſixty-five gallons,	£. 0	1	6	£. 0	1	6	£. 0	3	0
Every hogſhead of rum or other ſpirits,	0	1	3	0	1	3	0	2	6
Every hogſhead of tobacco,	0	1	0	0	1	0	0	2	0
Every caſk between ſixty-five and thirty-five gallons one half of a pipe or hogſhead; barrels, one fourth part; and ſmaller caſks or kegs in proportion, according to the quality and quantity of their contents of wine or ſpirits.									
For caſks of linſeed oil the ſame as ſpirits.									
Every buſhel of wheat, peas, beans, or flax-ſeed,	0	0	0½	0	0	0½	0	0	1
Every buſhel of Indian corn or other grain, or ſalt,	0	0	0¼	0	0	0¼	0	0	0¼
Every barrel of pork,	0	0	6	0	0	6	0	1	0
Every barrel of beef,	0	0	4	0	0	4	0	0	8
Every barrel of flour,	0	0	3	0	0	3	0	0	6
Every ton of hemp, flax, pot-aſh, bar or manufactured iron,	0	2	6	0	2	6	0	5	0
Every ton of pig iron or caſtings,	0	0	10	0	0	10	0	1	8
Every ton of copper, lead, or other ore, other than iron ore,	0	2	0	0	2	0	0	4	0
Every ton of ſtone, or iron ore,	0	0	5	0	0	5	0	0	10
Every hundred buſhels of lime,	0	1	3	0	1	3	0	2	6
Every chaldron of coals,	0	0	5	0	0	5	0	0	10
Every hundred pipe ſtaves,	0	0	2¼	0	0	2¼	0	0	4½
Every hundred hogſhead ſtaves, or pipe or hogſhead heading,	0	0	1½	0	0	1½	0	0	3
Every hundred barrel ſtaves or barrel heading,	0	0	1	0	0	1	0	0	2
Every hundred cubic feet of plank or ſcantling,	0	0	10	0	0	10	0	1	8
Every hundred cubic feet of other timber,	0	0	5½	0	0	5½	0	0	11
Every groſs hundred weight of all other commodities & packages,	0	0	1½	0	0	1½	0	0	3
And every empty boat or veſſel, which has not commodities on board to yield ſo much, except an empty boat or veſſel returning, whoſe load has already paid at the reſpective places, the ſums fixed at each, in which caſe ſhe is to repaſs toll free,	0	2	6	0	2	6	0	5	0

Which tolls are rated in ſterling money, and may be diſcharged in foreign gold or ſilver coin of the preſent fineneſs, at the following rates, to wit:

	Sterling.		
Spaniſh milled piece of eight, or dollar,	£. 0	4	6
Other coined ſilver of equal fineneſs per ounce,	0	5	1¼
Engliſh milled crowns,	0	5	0
French ſilver crowns,	0	5	0
Johannes weighing eighteen pennyweights,	3	12	0
Half Johannes, weighing nine pennyweights,	1	16	0
Moidores weighing ſix pennyweights eighteen grains,	1	7	6

Engliſh Guineas weighing five pennyweights ſix grains,	1	1	0
French guineas weighing five pennyweights five grains,	1	0	10
Doubloons weighing ſeventeen pennyweights,	3	6	0
Spaniſh piſtoles weighing four pennyweights ſix grains,	0	16	6
French milled piſtoles weighing four pennyweights and four grains,	0	16	4
Arabian chequins weighing two pennyweights three grains,	0	8	6
Other gold coin (German excepted) by the pennyweight,	0	4	0

But if any of the coins aforeſaid, ſhould hereafter be rendered leſs valuable than they are at preſent, either by leſſening their weight, or therewith adding a greater quantity of alloy than is in them reſpectively at preſent, then ſo much of any of the ſaid coins, the value of which is ſo reduced, to be received for the tolls aforeſaid, as is equal in value to the ſaid coins in their preſent ſtate of fineneſs and weight, ſhall be payable for the ſaid tolls at their reduced value only.

Veſſels paſſing without paying toll liable to ſeizure.

And in caſe of refuſal or neglect to pay the tolls at the time of offering to paſs through any of the ſaid places, and previous to the veſſel's paſſing through the ſame, the Collectors of the ſaid tolls may lawfully refuſe paſſage to ſuch veſſels, and if any veſſel ſhall paſs without paying the ſaid toll, then the ſaid Collectors may ſeize ſuch veſſel wherever found, and ſell the ſame at auction for ready money, which ſo far as is neceſſary ſhall be applied towards paying the ſaid toll and all expenſes of ſeizure and ſale, and the balance, if any, ſhall be paid to the owner; and the perſon having the direction of ſuch veſſel, ſhall be liable for ſuch toll, if the ſame is not paid by ſale of ſuch veſſel as aforeſaid. *Provided*, That the ſaid proprietors or a majority of them, holding at leaſt three hundred ſhares, ſhall have full power and authority at any general meeting, to leſſen the ſaid tolls or any of them, or to determine that any article may paſs free of toll.

River and works to be eſteemed a public highway.

X. *AND be it enacted*, That the ſaid river and the works to be erected thereon in virtue of this Act, when completed, ſhall forever thereafter be eſteemed and taken to be navigable as a public highway, free for the tranſportation of all goods, commodities, or produce whatſoever, on payment of the tolls impoſed by this Act, and no other toll or tax whatever for the uſe of the water of the ſaid River, and the works thereon erected, ſhall at any time hereafter be impoſed by both or either of the ſaid States, ſubject nevertheleſs to ſuch regulations, as the Legiſlatures of the ſaid States may concur in, to prevent the importation of prohibited goods, or to prevent fraud in evading the payment of duties impoſed in both or either of the ſaid States on goods imported into either of them. AND WHEREAS it is neceſſary for the making the ſaid canal, locks, and other works, that a proviſion ſhould be made for condemning a quantity of land for the purpoſe;

How the neceſſary lands may be acquired by the Company.

XI. *BE it enacted*, That it ſhall and may be lawful for the ſaid Preſident and Directors, or a majority of them, to agree with the owners of any land, through which the ſaid canal is intended to paſs, for the purchaſe thereof, and in caſe of diſagreement, or in caſe the owner thereof ſhall be a feme-covert, under age, non-compos, or out of the State, on application to any two Juſtices of the County, in which ſuch land ſhall lie, the ſaid Juſtices ſhall iſſue their warrant, under their hands, to the Sheriff of their County, to ſummon a Jury of twenty-four inhabitants of his County, of property and reputation, not related to the parties nor in any manner intereſted, to meet on the land to be valued, at a day to be expreſſed in the warrant, not leſs than ten, nor more than twenty days thereafter; and the Sheriff, upon receiving the ſaid warrant, ſhall forthwith ſummon the ſaid Jury, and when met, provided that not leſs than twelve do appear, ſhall adminiſter an oath or affirmation to every Juryman that ſhall appear, "That he will faithfully, juſtly and impartially value the land (not exceeding in any caſe the width of one hundred and forty feet) and all damages the owner thereof ſhall ſuſtain by the cutting the canal through ſuch land, according to the beſt of his ſkill and judgment, and that in ſuch valuation he will not ſpare any perſon, through favor or affection, nor any perſon grieve through malice, hatred or ill-will." And the inquiſition thereupon taken, ſhall be ſigned by the Sheriff, and ſome twelve or more of the Jury, and returned by the Sheriff to the Clerk of his County, to be by him recorded; and upon every ſuch valuation, the Jury is hereby directed, to deſcribe and aſcertain the bounds of the land by them valued, and their valuation ſhall be concluſive on all perſons, and ſhall be paid by the ſaid Preſident and Directors to the owner of the land, or his legal repreſentative, and on payment thereof, the ſaid Company ſhall be ſeized in fee of ſuch land, as if conveyed by the owner to them and their

ſucceſſors by legal conveyance. *Provided nevertheleſs*, That if any farther damage ſhall ariſe to any proprietor of land in conſequence of opening ſuch canal, or in erecting ſuch works, than had been before conſidered and valued, it ſhall and may be lawful for ſuch proprietor, as often as any ſuch new damage ſhall happen, by application to, and a warrant from any two Juſtices of the County where the lands lie, to have ſuch further damage valued by a Jury in like manner, and to receive and recover the ſame of the ſaid Preſident and Directors: But nothing herein ſhall be taken or conſtrued to entitle the proprietor of any ſuch land to recover compenſation for any damages which may happen to any mills, forges, or other water-works, or improvements, which ſhall be begun or erected by ſuch proprietor after ſuch firſt valuation, unleſs the ſaid damage is wilfully or maliciouſly done by the ſaid Preſident and Directors, or ſome perſon by their authority.

XII. *AND be it enacted*, That the ſaid Preſident and Directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchaſe of a quantity of land, not exceeding one acre, at or near each of the ſaid places of receipt of tolls aforeſaid, for the purpoſe of erecting neceſſary buildings; and in caſe of diſagreement or any of the diſabilities aforeſaid, or the proprietor being out of the State, then ſuch land may be valued, condemned and paid for as aforeſaid, for the purpoſe aforeſaid, and the ſaid Company ſhall, upon payment of the valuation of the ſaid land, be ſeized thereof in fee-ſimple, as aforeſaid. AND WHEREAS, ſome of the places through which it may be neceſſary to conduct the ſaid canals may be convenient for erecting mills, forges, and other water-works, and the perſons poſſeſſors of ſuch ſituation may deſign to improve the ſame, and it is the intention of this Act not to interfere with private property, but for the purpoſe of improving and perfecting the ſaid navigation:

XIII. *BE it enacted*, That the water or any part thereof, conveyed through any canal or cut made by the ſaid Company, ſhall not be uſed for any purpoſe but navigation, unleſs the conſent of the proprietors of the land through which the ſame ſhall be led, be firſt had, and the ſaid Preſident and Directors, or a majority of them, are hereby empowered and directed, if it can be conveniently done, to anſwer both the purpoſes of navigation and water-works aforeſaid, to enter into reaſonable agreements with the proprietors of ſuch ſituation, concerning the juſt proportion of the expenſes of making large canals or cuts capable of carrying ſuch quantities of water as may be ſufficient for the purpoſes of navigation, and alſo for any ſuch water-works as aforeſaid.

XIV. *AND be it enacted*, That it ſhall and may be lawful for every of the ſaid proprietors to tranſfer his ſhare or ſhares, by deed, executed before two witneſſes, and regiſtered after proof of the execution thereof in the ſaid Company's books, and not otherwiſe, except by deviſe, which deviſe ſhall alſo be exhibited to the Preſident and Directors, and regiſtered in the Company's books, before the deviſee or deviſees ſhall be entitled to draw any part of the profits from the ſaid tolls. *Provided*, That no tranſfer whatſoever ſhall be made, except for one or more whole ſhare or ſhares, and not for part of ſuch ſhares, and that no ſhare ſhall at any time be ſold, conveyed, tranſferred or held in truſt, for the uſe and benefit, or in the name of another, whereby the ſaid Preſident and Directors or proprietors of the ſaid Company, or any of them, ſhall or may be challenged or made to anſwer, concerning any ſuch truſt, but that every ſuch perſon appearing as aforeſaid, to be a proprietor, ſhall, as to the others of the ſaid Company, be to every intent taken abſolutely as ſuch; but as between any truſtee and the perſon for whoſe benefit any truſt ſhall be created, the common remedy may be purſued. AND WHEREAS, it hath been repreſented to this General Aſſembly, that ſundry perſons are willing and deſirous, on account of the great public advantages and improvement their eſtates may receive thereby, to promote and contribute towards ſo uſeful an undertaking, and to ſubſcribe ſums of money to be paid on condition the ſaid works are really completed and carried into execution, but do not care to run any riſk, or deſire to have any property therein:

Shares tranſferrable.

XV. *BE it therefore enacted*, That the ſaid Preſident and Directors ſhall be, and are hereby empowered to receive and take in ſubſcriptions, upon the ſaid condition, and upon the ſaid works being completed and carried into execution, according to the true intent and meaning of this Act, that it ſhall and may be lawful for the ſaid Preſident and Directors, or a majority of them, in caſe of refuſal or neglect of payment, in the name of the Company as aforeſaid, to ſue

Subſcriptions in aid to be received by Preſident and Directors.

for and recover of the said subscribers, their heirs, executors or administrators, the sums by them respectively subscribed, by action of debt, or upon the case, in any Court of Record within this State.

Capital of the Company may be increased.

XVI. *AND be it enacted*, That if the said capital, and the other aids already granted by this Act, shall prove insufficient, it shall and may be lawful for the said Company, from time to time, to increase the said capital by the addition of so many more whole shares, as shall be judged necessary by the said proprietors or a majority of them, holding at least three hundred shares, present at any general meeting of the said Company. And the said President and Directors, or a majority of them, are hereby empowered and required, after giving at least one month's notice thereof in the Maryland and Virginia Gazettes, to open books at the before-mentioned places, for receiving and entering such additional subscriptions, in which the proprietors of the said Company, for the time being, shall, and are hereby declared to have the preference of all others for the first thirty days after the said books shall be opened as aforesaid, of taking and subscribing for so many whole shares as any of them shall choose. And the said President and Directors are hereby required to observe in all other respects the same rules therein, as are by this Act prescribed, for receiving and adjusting the first subscriptions and in like manner to return, under the hands of any three or more of them, an exact list of such additional subscribers, with the sums by them respectively subscribed, into the General Courts, as aforesaid, to be there recorded, and all proprietors of such additional sums, shall, and are hereby declared to be, from thenceforward, incorporated into the said Company.

Conditions on which tolls are made payable.

XVII. *AND it is hereby declared and enacted*, That the tolls herein before allowed, to be demanded and received at the nearest convenient place below the mouth of the South Branch, are granted, and shall be paid on condition only, That the said Potowmack Company shall make the river well capable of being navigated in dry seasons, by vessels drawing one foot water from the place on the North Branch, at which a road shall set off to the Cheat River, agreeably to the determination of the Assemblies of Virginia and Maryland, to and through the place which may be fixed on, below the mouth of the South Branch, for receipt of the tolls aforesaid; but if the said river is only made navigable as aforesaid, from Fort-Cumberland, to and through the said place below the mouth of the South Branch, then only two-thirds of the said tolls shall be there received. That the tolls herein before allowed, to be demanded and received at or near Payne's Falls, are granted and shall be payable on condition only, that the said Potowmack Company shall make the River well capable of being navigated in dry seasons, by vessels drawing one foot water, from the said place of collection, near the mouth of the South Branch, to and through Payne's Falls as aforesaid. That the tolls herein before allowed to be demanded and received at the Great Falls, are granted, and shall be payable on condition only, that the said Potowmack Company shall make the river well capable of being navigated in dry seasons, from Payne's Falls to the Great Falls, by vessels drawing one foot water, and from the Great Falls to tide water, and shall at or near the Great Falls make a cut or canal, twenty-five feet wide, and four feet deep, with sufficient locks, if necessary, each of eighty feet in length, sixteen feet in breadth, and capable of conveying vessels or rafts drawing four feet water at the least, and shall make at or near the Little Falls such canal and locks, if necessary, as will be sufficient and proper to let vessels and rafts aforesaid, into tide water, or render the said river navigable in the natural course.

Charter, how forfeitable.

XVIII. *AND it is hereby provided and enacted*, That in case the said Company shall not begin the said work within one year after the Company shall be formed, or if the navigation shall not be made and improved between the Great Falls and Fort-Cumberland, in the manner herein before mentioned, within three years after the said Company shall be formed, that then the said Company shall not be entitled to any benefit, privilege, or advantage, under this Act: And in case the said Company shall not complete the navigation through and from the Great Falls to tide water as aforesaid, within ten years after the said Company shall be formed, then shall all interest of the said Company and all preference in their favor, as to the navigation and tolls, at, through, and from the Great Falls to tide water, be forfeited and cease.

XIX. *AND be it enacted*, That all commodities of the produce of either of the said States, or of the Western Country, which may be carried or transported through the said locks, canals, and river, may be landed, sold, or otherwise disposed of, free from any other duties, impositions, regulations, or restric

tions, of any kind, than the like commodities of the produce of the State in which the ſame may happen to be ſo landed, ſold, ſhipped, or diſpoſed of.

Treaſurer to ſubſcribe for fifty ſhares.

XX. *AND be it further enacted*, That the Treaſurer of this Commonwealth ſhall be authorized and directed to ſubſcribe to the amount of fifty ſhares, in behalf of the ſame, and the money neceſſary in conſequence of ſuch ſubſcriptions ſhall be paid as the ſame ſhall be required. And the Treaſurer for the time being ſhall have a right to vote according to ſuch ſhares, in perſon or by proxy, appointed by him, and ſhall receive the proportion of the tolls aforeſaid, which ſhall, from time to time, become due to this State for the ſhares aforeſaid.

Repealing clauſe

XXI. *AND be it further enacted*, That ſo much of every Act and Acts, within the purview of this Act, ſhall be, and the ſame is hereby repealed.

At a *General Aſſembly*, begun and held at the Capitol, in the City of *Richmond*, on *Monday*, the 1ſt day of *October*, in the Year of our Lord, 1792.

CHAP. V.

An Act to amend an Act, intituled, "An Act authoriſing the Executive to direct the Sheriffs to ſell certain Lands the Property of this Commonwealth.

[Paſſed November the 24th, 1792.]

Public lands not to be ſold by the ſheriffs unleſs the ſales amount to the debts due to, and expenſes incurred by the public.

I. BE *it enacted by the General Aſſembly*, That from and after the paſſing of this act, it ſhall not be lawful for any ſheriff, to ſell any tract or parcel of land belonging to this Commonwealth, under the directions of an act, intituled, "An act authoriſing the Executive to direct the ſheriffs to ſell "certain lands the property of this commonwealth," unleſs the ſame ſhall ſell for the whole ſum due to the commonwealth, including the original coſt and the expenſes attending the ſale thereof, and excluding the damages impoſed by the act, intituled, "An act to remedy abuſes in the manner of ſelling lands for the payment of public taxes."

Surveyor's fees to be paid out of the aggregate fund.

II. *AND be it further enacted*, That the fees of the county ſurveyors, as well for having ſurveyed any tract or parcel of land, which under the laſt recited act has already become the property of the commonwealth, and which have not been paid, as for making any future ſurvey in purſuance of the ſaid act, ſhall be paid out of the aggregate fund, and in no other manner.

Certain ſheriffs and ſurveyors prohibited from purchaſing ſuch lands, or interfering in the ſales thereof, under certain penalties.

III. *AND be it further enacted*, That no ſheriff or deputy ſheriff, who hath been heretofore concerned in the ſale of any the above deſcribed lands, and no ſurveyor or deputy ſurveyor, ſhall become the purchaſers of any ſuch lands, either directly or indirectly; and if contrary to the intent and meaning of this act, any ſheriff or ſurveyor, or the deputy or deputies of either, ſhall become purchaſers thereof, or interfere in any manner in the ſale thereof, ſuch purchaſe ſhall not only be null and void, but every ſuch perſon and perſons ſo offending, ſhall moreover forfeit and pay the ſum of three hundred dollars; to be recovered by bill, plaint or information, in any court of record within this commonwealth, one half to the uſe of the informer, and the other half to the uſe of the commonwealth.

Conditions on which the former proprietors may redeem ſuch lands.

IV. WHENSOEVER any lands as aforeſaid, ſold or to be ſold, ſhall be redeemed or purchaſed, by the former proprietor, his or her agent or friend, acting in his or her behalf, ſuch proprietor ſhall be exonerated from the payment of all coſts, except thoſe which have actually ariſen upon the ſale thereof, and in either caſe the releaſe of the ſheriff executed agreeably to the directions of the aforeſaid firſt recited act, ſhall to all intents and purpoſes remit ſuch former proprietor to, and reinſtate him or her in their former eſtate in ſuch land: And where ſuch former ſheriff ſhall have obtained a credit for any ſurveyor's fee as above mentioned, and ſhall not have had ſuch ſurvey actually made, in that caſe, the proprietor or proprietors as aforeſaid, ſhall have the like remedy and proceedings againſt ſuch ſheriff and his ſecurities, or either of them, as if the ſame had been redeemed before ſo ſold; any law to the contrary thereof, notwithſtanding.

Their remedy againſt the ſheriffs for ſurveyors' fees received, when no ſurveys have been made.

Commencement of this act.

V. THIS act ſhall commence and be in force from and after the paſſing thereof.

CHAP. VI.

An Act to provide more effectually for the Collection of the Public Taxes in certain Cases.

[Passed December the 26th, 1792.]

Preamble.

I. WHEREAS it hath been represented, that in many of the counties in this commonwealth, no person hath undertaken or would undertake the collection of the public taxes payable therein, so that the same still remain due and unpaid by the inhabitants thereof: For remedy whereof,

The executive empowered to appoint collectors of taxes in certain counties.

II. *BE it enacted by the General Assembly*, That the governor, with advice of the council, shall and he is hereby required to appoint and commission proper persons to collect the taxes of every county in this commonwealth where no collector hath been appointed, and undertaken the same by giving bond and security; and the person or persons so commissioned, shall before he or they proceed to the collection of the public taxes, give the like bond and security as is directed in the case of sheriffs, either in the court of the county in which he resides, in the court of the county of which he is appointed collector, or before the Executive. And the collector or collectors to be qualified under this act, shall receive the same commissions, and be liable to the same remedies, fines and penalties as sheriffs are subject to for a failure in the collecting, accounting for, and paying the public taxes. Every bond taken pursuant to this act, shall be as effectual to all intents and purposes, as those entered into by sheriffs for the collection of the public taxes.

And commissioners to ascertain the taxable property.

III. AND whereas no commissioners have been appointed in several counties, and from the neglect of commissioners in returning a list of the taxable property in several other counties, by reason whereof no collection of the public taxes have been or could be made: For remedy whereof, *Be it further enacted*, That the governor, with the advice of council, shall appoint three discreet and proper persons in each county, coming within the purview of this act, whose duty it shall be to enquire into and ascertain the taxable property in such county, (where the same hath not been done) on which arrears of taxes are still due; a copy of which return shall be delivered to the collector or collectors qualifying under this act, and one other copy transmitted to the auditor, from which list the collector shall proceed to collect the said taxes, and account for and pay the same. The commissioners appointed under this act, shall be liable to the same penalties, and be entitled to the same wages, as are prescribed for other commissioners, by an act, intituled, "An act prescribing the mode of ascertaining the taxable property within this commonwealth, and of collecting the public revenue.

Suits to be commenced against delinquent commissioners of estates sequestered during the late war.

IV. *AND be it further enacted*, That if any commissioner appointed by the governor and council, pursuant to the act passed in the year one thousand seven hundred and seventy-seven, intituled, "An act for sequestering British property, enabling those indebted to British subjects to pay off such debts, and directing the proceedings in suits where such subjects are parties," have failed to render a fair account upon oath of his disbursements and receipts of the estate committed to his management, or failed to pay the balance due on any account by him rendered, every such commissioner, or the executors or administrators of such as be dead, shall, by order and direction of the Executive, be sued in the name of the commonwealth, for the recovery of any balance which may remain in his or their hands.

Executive to take proper measures for the recovery of public debts; and make a report of their situation to the next assembly.

V. *AND be it further enacted*, That the Executive be, and they are hereby authorised and required to cause all legal ways and means to be exerted without delay, for the speedy and effectual recovery of all debts and balances of every denomination, due and owing to the commonwealth, and make particular report of the situation thereof to the next session of the General Assembly.

Commencement of this act.

VI. THIS act shall commence and be in force from and after the passing thereof.

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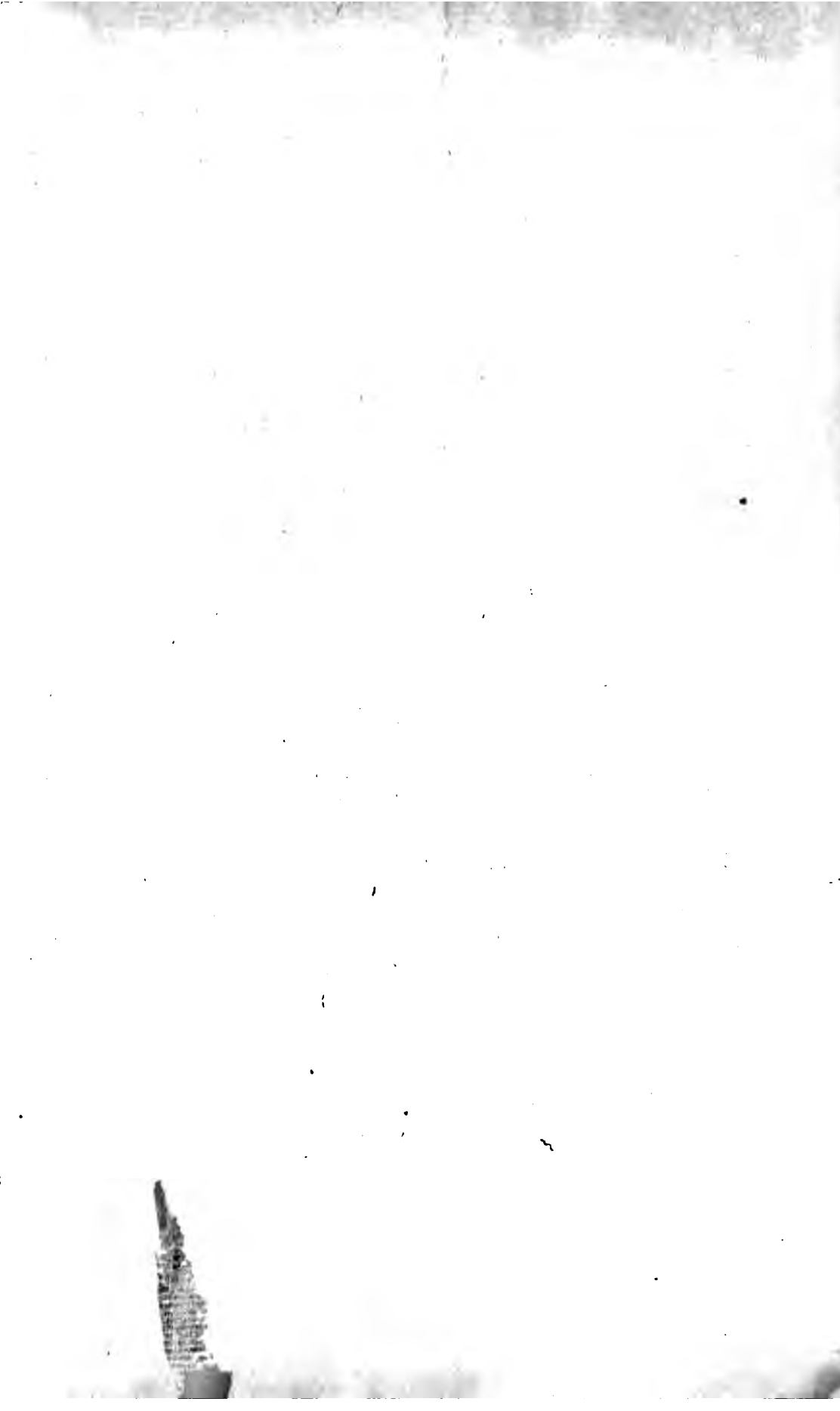

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